

Mark Mussman

From: Jessica Lunbeck <jessica_joy_7@yahoo.com>
Sent: Tuesday, August 4, 2020 12:39 PM
To: Mark Mussman
Subject: Re: Asphalt Plant



Hello.

After reading all the information provided over the last 3 months I can 100% say I do not want an asphalt / concrete batch plant in the West Valley area. I have also read a few of the letters that have been sent that are against the plant as well. They go into great detail enumerating why the plant should not be in the neighborhood. I don't want to be repetitive so I will simply say an industrial plant has no place in a residential neighborhood. It is beautiful out there in the farmland and a plant would totally ruin it. Whether it is the scenery, land, or air.

If I recall correctly, the gravel pit was only allowed to be there with the understanding that once all the gravel was gone, the hole would be filled in, and that the land would revert back to it's natural state of farmland. I talked to a next door neighbor and they were under the same impression. This applying for an asphalt plant goes totally against that agreement.

Thank you for reading this and I hope you vote against the plant.

Jessica Lunbeck

Sent from Yahoo Mail on Android

On Sat, May 2, 2020 at 2:52 PM, Jessica Lunbeck <jessica_joy_7@yahoo.com> wrote:

Hello. I got a notice saying that an application has been put in for a plant at 3427 Farm to Market Rd. Please hold off on the vote until June. The public has not been given any information about anything. I just happened to see a notice on a bulletin board at the end of my road. Personally I don't want an asphalt plant in a residential and farming community. I think it would be bad for the environment. I would like to make an informed decision though. Thank you. Jessica Lunbeck

Sent from Yahoo Mail on Android

Mark Mussman

From: TerryRhonda Longenecker <trlongneck@gmail.com>
Sent: Friday, July 31, 2020 4:30 PM
To: Mark Mussman
Subject: Concerning concrete/ashalt plant



To Mark Mussman, Planning Director,

If the proposal of one 160 acre landowner does not match the shared use goals of the 9000 acre West Valley neighborhood, it should be denied.

24 years ago the county commissioners adopted the West Valley neighborhood plan. Today everyone can see plainly the fruit of their labor and see a valley of forest and farmland with homesteads nestled throughout. Their vision "to maintain the rural and scenic qualities of West Valley" is a current reality enjoyed by anyone who drives north from West Valley School and tops the hill to gaze upon the heart of the West Valley - a valley spread out beneath spacious skies rimmed by the mountains and open space of a vast coherent and unified vision for all.

This asphalt and concrete plant is proposed in this very place and would most certainly have a **negative** impact upon the future of the valley for years to come.

It would be a betrayal of trust if this proposal was accepted.

Please oppose this request alongside all who are committed to a vision "to maintain the rural and scenic qualities of West Valley," as it stands written in the West Valley neighborhood plan.

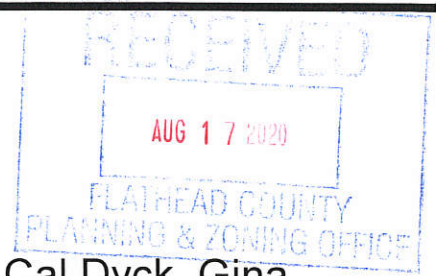
Please deny FCU-20-04

Thank you,

Terry and Rhonda Longenecker
3230 Farm to Market Road

Mark Mussman

From: Frank & Linda de Kort <dekort@montanasky.com>
Sent: Saturday, August 1, 2020 12:18 PM
To: Mark Mussman
Subject: FCU 20 04



To: Flathead County Board of Adjustment members, Cal Dyck, Gina Klempel,
Ole Netterberg, Roger Nobel, Tobias Liechti.

From: Frank and Linda de Kort, 1290 Lost Creek Drive, Kalispell

Re: FCU-20-04

Date: August 1, 2020

We are residents of West Valley and we request that you deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road. We submitted a letter to the Board of Adjustments regarding this application in May of this year. Since then the Planning Office has deemed to listen to the West Valley Land Owners Advisory Committee and has revamped their original staff report. The applicant has also submitted supplemental information. Despite these meager efforts we continue to have major objections to omissions in the so called "findings of facts" submitted in the staff report by Planner: MM, dated July 17, 2020.

We are particularly concerned about Finding #3 which states unequivocally that "There does not appear to be environmental constraints on the property .."

This finding seems to be based on the premise that the Flathead County Health Department did not weigh in on this issue. That lack of response from our public health official could most likely be attributed to the changing of the guard and most especially to the focus on Covid – 19 at this crucial time. If the health community had weighed in and if the staff had dug deeper it would be apparent that an asphalt plant does not belong in a area that has become substantially residential. Asphalt contains toxic materials. We would like to present the following findings:

1. Hot mix asphalt plant fumes contain polycyclic aromatic hydrocarbon (PAH) according to the Journal of Environmental Engineering and Science. The Agency for Toxic Substance and Disease Registration Agency for Toxic Substance and Disease Registration <<https://www.atsdr.cdc.gov/>> states that the carcinogenicity of certain PAHs is well established in laboratory animals. Increased incidences of lung, skin, and bladder cancers are associated with occupational exposure to PAHs. After chronic exposure, the non-carcinogenic effects of PAHs involve primarily the pulmonary, gastrointestinal, renal, and dermatologic systems. In addition, animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system.

2. According to the Occupational Safety and Health Administration health effects from exposure to asphalt fumes include headache, skin rash, sensitization, fatigue, reduced appetite, throat and eye irritation, cough, and skin cancer.

3. The Office of Air Quality of EPA reports that: The primary emission sources associated with Hot Mix Asphalt (HMA) plants are substantially greater than those produced by the existing gravel extraction. The dryers, hot bins, and mixers, emit particulate matter (PM) and a variety of gaseous pollutants. Other emission sources found at HMA plants include storage silos, which temporarily hold the HMA; truck load-out operations, in which the HMA is loaded into trucks for hauling to the job site; liquid asphalt storage tanks; hot oil heaters, which are used to heat the asphalt storage tanks; and yard emissions, which consist of fugitive emissions from the HMA in truck beds. Emissions also result from additional vehicular traffic on paved and unpaved roads, aggregate storage and handling operations, and vehicle exhaust.

4. According to the federal Occupational Safety and Health Administration, "Asphalt plants are known to produce toxic air pollutants, including arsenic, benzene, formaldehyde, and cadmium, that may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation.

"Asphalt paving workers, for example, have reported breathing problems,

asthma, bronchitis, and skin irritation, according to OSHA, and studies have reported lung, stomach, and skin cancers following chronic exposures to asphalt fumes.” 5. According to the National Institute for Occupational Safety and Health: asphalt fumes are considered potential occupational carcinogens. 6. The federal Environmental Protection Agency states "Asphalt processing are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation. Asphalt plants mix gravel and sand with crude oil derivatives to make the asphalt used to pave roads, highways, and parking lots across the country. These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates.”

We trust that you will consider these findings and their reliable sources. The Planning Office has argued that the permitting process need not consider these major health issues. They pass that significant duty to the State Department of Environmental Quality. We urge you to take the responsibility as a local agency to protect the health of our community members. An asphalt plant does not belong in a residential area that is also in close proximity to our elementary school.

Sincerely,

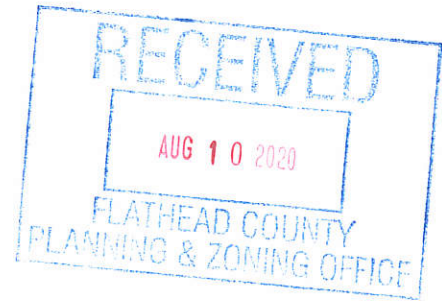
Frank and Linda de Kort
1290 Lost Creek Drive
Kalispell, Montana 59901

Tele: 406 755 3704

AUG 17 2020

Mary Fisher

From: rghntrpz <rghntrpz@aol.com>
Sent: Sunday, August 9, 2020 10:51 PM
To: Mary Fisher
Cc: Rghntrpz@aol.com
Subject: Revised Planning Report #FCU 08-07



To: Ms. Fisher, Flathead County BOA

Regarding: Revised Planning Report #FCU 08-07

I moved to the Flathead Valley over 20 years ago because of it's natural beauty and healthy environment, and the community efforts to preserve them. This after living in areas that lost their character and well-being due to unfettered development.

Unfortunately I have been disappointed as this area has developed in ways contrary to the needs and desires of the majority of local residents, while at the same time I recognize the rights that individuals have regarding what they want to do to meet their own objectives.

As a property owner myself (now a personal residence and a rental house, and previously other homes, a rental commercial building, and being on two HOA boards) I would be resistant to having someone else tell me what I could or could not do. Still, whatever I decide to do on my own properties takes into consideration the potential impact on others.

If we are to maintain the best of what we have as a community we must balance growth with what is best for all especially regarding such aspects as personal safety and air and water quality. Individual and especially corporate financial gain, along with growth for growth's sake should not be the primary motivators over community well-being. Think about fracking in the valley! Local planning and governmental agencies end up being the moderator for such decisions.

I am not a resident of the West Valley area yet feel for them deeply. They, the Citizens for Quality Growth, have organized in an attempt to preserve their quality of life for their families, and their financial and emotional investments. They have established a framework and legal zoning for acceptable development in their area and have fought, at a lot of expense, to preserve it. Previous legal decisions have defined what can and can not be allowed in the planning/zoned area. Under what reasonable and defensible circumstances can an individual (corporate) property owner now decide to pursue an asphalt and/or concrete batch plant in an otherwise agricultural area over the objections of the area residents and the rights that they have legally acquired?

Please deny this request for the sake of the preservation of this portion of, and in ongoing decisions, for all of our beautiful county, and for the benefit of all of us for the long term.

Thank you.

Richard Haberkern
45 Overlook Point
Kalispell, MT 59901

July 30, 2020

Mark Mussman – Director
Flathead County Planning & Zoning
1035 First Avenue West
Kalispell, MT 59901

RE: FCU-20-04

Dear Mr. Mussman:

The proposed asphalt batch plant in West Valley is considered an industrial activity. It was precluded back in 2005, when the original CUP was requested, as it was considered inappropriate for the area. With the increase in residential homes, families, and children, such industrial activity is even more inappropriate today.

Heavy industrial uses such as this have no place in the West Valley Neighborhood Plan. FCU- 2- 04 should be denied.

Sincerely,



Mark Schwager
PO Box 7635
Kalispell, MT 59904

MJS/ms



Mary Fisher

From: Jane Senter <meditate@centurytel.net>
Sent: Tuesday, August 4, 2020 2:45 PM
To: Mary Fisher
Subject: Asphalt/Batch Plant proposal

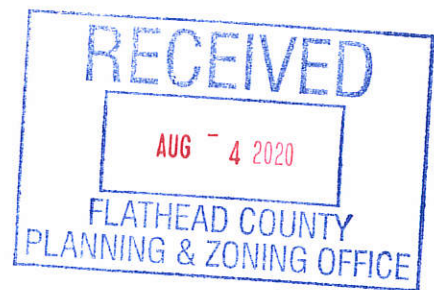
Dear Ms Fisher & Flathead County Board of Adjustments,

I am writing for my entire family & other La Brant road neighbors to express our shock & outrage re the proposal to approve an asphalt plant in the West Valley neighborhood. Our La Brant Road neighborhood plan was also created & implemented 1997, after much effort and perseverance. Even back then we were talking & concerned about a situation such as this arising. The entire reason for a neighborhood plan is to protect the character of a rural residential neighborhood. We who invest in & live in these neighborhood (and those who move into these neighborhoods) depend on these Plans to ensure a high quality of life for our families & neighbors, protect our water & open space, ensure reasonable safe conditions from pollution, intrusive light, noise, & traffic, to name a few of the many reasons these protections were put into place.

We implore you to put an end to this challenge on the sound & reasonable limitations that were put in place in 1997 & again upheld in 2008 on industrial ventures & uses in the West Valley residential neighborhoods. We stand in unwavering support for our neighbors & friends in West Valley.

Jane Senter & Stephen Shumate & family
1263 LaBrant Rd
Big Fork, Montana

Sent from my iPad



Mary Fisher

From: Robert Hager <hgr_rbrt@yahoo.com>
Sent: Tuesday, August 4, 2020 10:45 AM
To: Mary Fisher
Subject: Asphalt and concrete plants in the Flathead Valley

It is time to permanently reign in companies who do not have the best interests for our citizens health and well being. I do not agree that we need more polluting and ravaging of our earth and its resources. Residential areas must be protected despite the demands of businesses. No more "deals" please. Give these businesses strict guidelines with no compromises. Thank you for your attention.

Robert Hager, D.C.
Columbia Falls, MT



Mary Fisher

From: website@flathead.mt.gov
Sent: Monday, August 3, 2020 4:51 PM
To: PZ Contact US
Subject: Contact Message



Contact Inquiry

The information below is being sent from your website.

Name:	Roger Gussner
Email:	Lvmowing@gmail.com
Subject:	Schellinger
Message:	What's the point of zoning if you grant a variance or change the zoning every time a monied interest makes a request. Those people in West Valley bought there with the knowledge the gravel pit would never be an asphalt or concrete plant and the area is zoned residential. Tell Schellinger to put there plant in a commercial zone and let West Valley remain as it has been designated. Residential! Sincerely, Roger Gussner Kalispell

Mary Fisher

From: mary via <maryevia@gmail.com>
Sent: Monday, August 3, 2020 4:33 PM
To: Planning.Zoning
Subject: proposed Asphalt Plant (FCU-20-40)

Board of Adjustment

I am a resident of West Valley and I request that you deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road.

The Board of Adjustments has refused to grant a batch plant at this site at least twice.

I want to thank the BOD for recognizing that West Valley is a residential area, not an industrial area. I want to thank the BOA for respecting the underlying tenets of the West Valley Neighborhood Plan - no industrial development unless it is in the normal operation of farming.

The West Valley Neighborhood Plan has examined the various physical and social elements of the area and has established a benchmark from which all future land use proposals can be measured. The WVNP presents a future vision for the West Valley area. The vision is for residential living and does not include industrial development.

Asphalt plants simply do NOT belong in residential areas.

The existing noise pollution will be untenable for local residents.

There will be a dangerous increase of tractor trailer traffic along Farm to Market Road, Church Road and other routes endangering children going to school, bicyclists and local commuters.

There will be an increase in emissions from the asphalt batch plant which will impact air quality for all who live in the area. The primary emission sources associated with asphalt plants are substantially greater than those produced by the existing gravel extraction. In addition, asphalt fumes are considered potential carcinogens.

Asphalt contains toxic materials. If there is a mishap, ground water will be adversely affected, air quality will be adversely affected, toxic fumes will be released to harm local citizens.

Asphalt plants simply do NOT belong in residential areas.

West Valley thankfully still maintains a rural quality of life. Families choose to move there for the quiet enjoyment of its residential and agricultural nature. Please respect the citizens of West Valley and their quality of life choices.

I request that the BOA deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road. Thank you very much for your consideration.

Mary Via
127 E Bluegrass
Kalispell MT 59901
907 687 2020



Mary Fisher

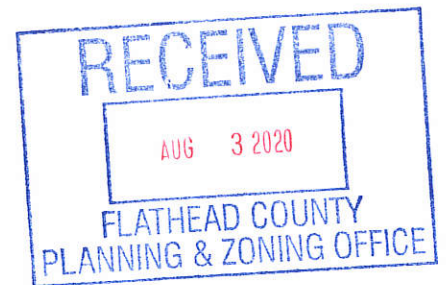
From: george.allen55@gmail.com
Sent: Monday, August 3, 2020 3:33 PM
To: Mary Fisher
Subject: West Valley plant proposal

Hello,

I wanted to voice my concern over the asphalt plant proposed in West Valley. I am an anesthesiologist who just bought a house in West Valley in 2018. I am concerned about the air quality, the impact on the residential areas, and the increase in traffic near the West Vally School, for the children as well as for the potential impact it would have on my commute to the hospital while on call. I need to be able to respond to emergencies at the hospital as soon as possible, and if we have an increase in truck traffic that could lead to a delay in care to a patient that may need it. I considered my commute to the hospital before buying our house, and it was adequate at the time, but this plant could negatively affect that commute, placing our community members in danger. Not to mention the risk it places to the children at West Valley commuting to and from the school! Please don't allow this plant to proceed. Thank you.

Sincerely,

George Allen, DO



Mary Fisher

From: Judith Pressmar <jpress092@gmail.com>
Sent: Monday, August 3, 2020 3:56 PM
To: Mary Fisher
Subject: Proposed asphalt batch plant

The proposed asphalt batch plant is not an approved use in this residential neighborhood. This use is totally inappropriate in any residential area. The effects on air and water quality, property values, and increased noise and truck traffic, make this use totally incompatible. Please do not approve this.

Thank you.

Judith Pressmar
844 Third Avenue East
Kalispell



Mary Fisher

From: Romagnuolo, Brinn <bromagnuolo@westvalleyschool.com>
Sent: Monday, August 3, 2020 4:11 PM
To: Mary Fisher
Subject: Asphalt Permit Concerns

August 3, 2020

To Whom It May Concern:

I am a teacher at West Valley School, preparing to start my 20th year of teaching in the West Valley Community. In the time that I have been there, our student population has doubled. We now have over 700 students, and when I started, there were just over 300. On my drive to work every day, I have seen the number of houses and development explode in our district, and with it the number of cars on the roads has also increased dramatically. When I started at West Valley, we did not have school busses transporting kids to and from school; now we have numerous busses and bus routes.

The addition of an asphalt plant added to an already expanding area is a serious safety concern. An asphalt plant will add more congestion, traffic, and large, heavy equipment in an area that has numerous families and children, school busses, etc. When driving west on West Reserve before 8 in the morning, there is a steady stream of traffic heading east into town, and with that are working mothers and fathers, and newly licensed drivers heading to Glacier High School. The road is already narrow and dangerous as it is, without the addition of heavy trucks hauling asphalt supplies. Icy mornings, make it even more treacherous. Furthermore, West Valley has already lost one former student, Alison Fifield, several years ago at the intersection of West Reserve and Stillwater Rd. due to a large truck failing to stop at a stop sign. We cannot have further tragedies.

Farm to Market Road is no better for more traffic. The sharp turn just past the school is a treacherous ice skating rink on wintery days, and the deer and elk that are known to frequently dart out in front of cars, makes for challenging driving without the addition of more trucks that can't stop as quickly on a dime.

Please consider the safety of our students, families, staff and community members and do not allow an asphalt plant in an already congested community, and help maintain the integrity of the area that makes West Valley a great place to live and work.

Sincerely,

Brinn Romagnuolo,
West Valley Teacher



Mary Fisher

From: Romagnuolo, Brinn <bromagnuolo@westvalleyschool.com>
Sent: Monday, August 3, 2020 4:12 PM
To: Planning.Zoning
Subject: Asphalt Plant Concerns

August 3, 2020

To Whom It May Concern:

I am a teacher at West Valley School, preparing to start my 20th year of teaching in the West Valley Community. In the time that I have been there, our student population has doubled. We now have over 700 students, and when I started, there were just over 300. On my drive to work every day, I have seen the number of houses and development explode in our district, and with it the number of cars on the roads has also increased dramatically. When I started at West Valley, we did not have school busses transporting kids to and from school; now we have numerous busses and bus routes.

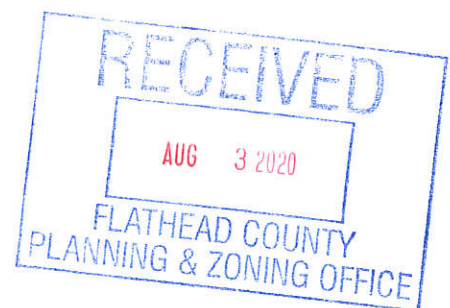
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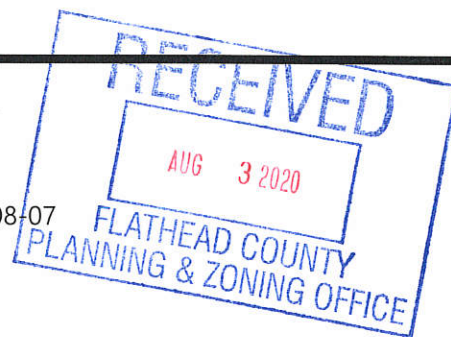
Sincerely,

Brinn Romagnuolo,
West Valley Teacher



Mary Fisher

From: Dennis Heinzig <dennis_heinzig@yahoo.com>
Sent: Monday, August 3, 2020 3:13 PM
To: Mary Fisher
Subject: Comments on Revised Planning Report #FCU 08-07



To Members of the Board of Adjustment,

I would like to express my opinion that the proposed asphalt plant permit should not be allowed and this plant should NOT be built for the following reasons:

1. **Impacts to home-owner property values are unacceptable:** The West Valley Neighborhood Plan adopted by the County Commissioners in 1997 and the zoning that implements it was the hard work of many hundreds of West Valley residents who supported its adoption and that it clearly and strictly limited commercial and industrial uses in the West Valley area. **Many residents not only fought hard for these zoning protections for their property, but they depended on this zoning in making likely the largest investment they have made in their lifetime by building a home here.** *(here you should talk about your personal involvement in the neighborhood planning process and/or how the neighborhood plan and the zoning impacted your decision to buy and build in the West Valley area and how you believe that if the BOA now allows an asphalt batch plant in your area how it could harm your property values).*
2. **Asphalt Plants don't belong in residential neighborhoods.** The Montana Supreme Court established in 2008 that the West Valley Neighborhood plan area was a residential zone and that the BOA could legally deny asphalt batch plants. Since that ruling West Valley has continued to grow and add significant housing. Ask the BOA to uphold the West Valley Neighborhood Plan and zoning and deny this batch plant as incompatible in this residential district.
3. **Risks to ground water contamination are unacceptable :** Do you rely on well water? How far is your well from this proposed asphalt batch plant and what direction is the ground water flowing? Almost all residents in West Valley have individual wells and septic systems. The area underlying this propose gravel pit and asphalt batch is uniquely susceptible to surface contamination. The Lost Creek Aquifer underlying a large portion of the West Valley area covers an area of approximately 8 square miles. Groundwater flow is generally from west to east. The Lost Creek Aquifer may be connected to the underlying deep alluvium, making it a possible important recharge source for the deep flow system. Elevated nitrate concentrations have been found in the Lost Creek Fan, indicating that groundwater has been impacted by surface contamination. [See map.](#)
4. **Likely impacts to the health of family's living near this proposed plant are unacceptable:** Do you or members of your family have health issues that may be negatively impacted by the emissions known to be generated from Asphalt Batch Plants. See the link above and provide information about how your family's health might be impacted. *(Click here for more info on impacts from asphalt batch plants)*
5. **Where is the factual data that Flathead County Zoning regulations require to for the Flathead Board of Adjustment to base their findings on?** "2.06.100 Board of Adjustment Decision Based on Findings. Every decision of the Board of Adjustment pertaining to the granting, denial, or amendment of a request for a Conditional Use Permit shall be based upon "Findings of Fact", and every Finding of Fact shall be supported in the records of its proceedings... **A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these regulations.**" Sweeping undocumented statements in the current staff report's findings of facts are inadequate to base approval on.
6. **Additional research and testimony is needed** from you and others to establish clear facts about negative impacts to road capacity, traffic, public safety, noise, impacts to West Valley School, and demonstrated need or lack of need for yet another asphalt batch plant in the area or in the Flathead.

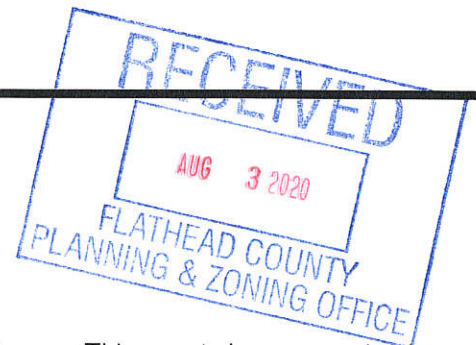
Thank you for considering my points.

Regards,

Dennis Heinzig
1617 Whitefish Hills Dr.
Whitefish, MT

Mary Fisher

From: Holly Batcheller <habatch@yahoo.com>
Sent: Monday, August 3, 2020 3:13 PM
To: Mary Fisher
Subject: Asphalt Batch Plant



I strongly disagree with the proposed Plant being placed in a residentially zoned area. This county has conveniently looked the other way as to the problems it is creating by approving every project and zone change request. Traffic patterns come to mind. How will it degrade the roadway in the area due to increase number and weight of trucks. I don't live in the West Valley area but I do understand the risk to approving a zone change for this project. Who wants industrial use areas backing up to their residential property? Probably not a single person. Please deny the zone change request at this location, there certainly are more appropriate places for such a project.

Holly Kemp
1937 Hodgson Road
Whitefish MT 59937

habatch@yahoo.com

Mary Fisher

From: Mary Caye Dover <marycayedover@gmail.com>
Sent: Monday, August 3, 2020 2:42 PM
To: Mary Fisher; Planning.Zoning
Subject: Asphalt Batch Plant
Attachments: Asphalt Letter.pdf

To: Flathead County Board of Adjustment members, Cal Dyck, Gina Klempel, Ole Netterberg, Roger Nobel, Tobias Liechti.

From: Marycaye Dover: West Valley Teacher

Re: FCU-20-04

Date: August 3, 2020

I am a 25-year tenured teacher and an advocate for students at West Valley School. I request that you deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road. This location is too close to West Valley School as well as residential areas.

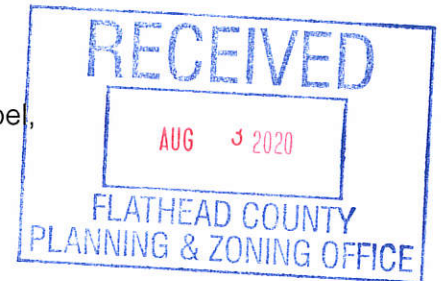
The West Valley Residents have put in time and energy to show the evidence that asphalt contains toxic materials. Below I quote documented research from Frank and Linda DeKort's letter dated August 1, 2020.

1. Hot mix asphalt plant fumes contain polycyclic aromatic hydrocarbon (PAH) according to the *Journal of Environmental Engineering and Science*. The [Agency for Toxic Substance and Disease Registration Agency for Toxic Substance and Disease Registration](#) states that the carcinogenicity of certain PAHs is well established in laboratory animals.
2. According to the *Occupational Safety and Health Administration* health effects from exposure to asphalt, fumes include headache, skin rash, sensitization, fatigue, reduced appetite, throat and eye irritation, cough, and skin cancer.
3. The *Office of Air Quality of EPA* reports that: The primary emission sources associated with Hot Mix Asphalt (HMA) plants are substantially greater than those produced by the existing gravel extraction.
4. According to the federal *Occupational Safety and Health Administration*, "Asphalt plants are known to produce toxic air pollutants, including arsenic, benzene, formaldehyde, and cadmium, that may cause cancer, central nervous system problems, liver damage, respiratory problems, and skin irritation.

The asphalt batch plant is not healthy for students, (or any human) this fact should be your number one priority!

Sincerely,

Marycaye Dover



To: Flathead County Board of Adjustment members, Cal Dyck, Gina Klempel, Ole Netterberg, Roger Nobel, Tobias Liechti.

From: Marycaye Dover: West Valley Teacher

Re: FCU-20-04



Date: August 3, 2020

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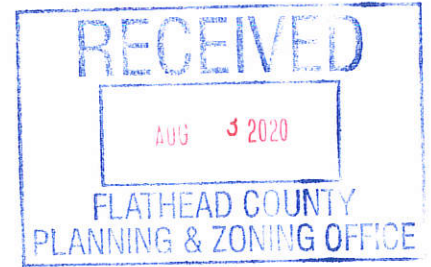
The asphalt batch plant is not healthy for students, (or any human) this fact should be your number one priority!

Sincerely,

Marycaye Dover

Email to:

mfisher@flathead.mt.gov AND Planning.Zoning@flathead.mt.gov



July 27, 2020

Mark Mussman
Flathead County Planning and Zoning
40 11th Street, Suite 220
Kalispell, Mt. 59901



Re: Asphalt Batch Plant
CC: Linda Tutvedt

Dear Mr. Mussman:

We are writing to again express our concerns and request that you deny the Section 16 Family Limited Partnership and Schellinger Construction Company request to place an asphalt and/or concrete batch plant at Church Drive and Farm to Market Road. This has been declared a residential neighborhood by the Montana 11th District Court, cannot be considered for non-agricultural industrial development, and prohibited asphalt and concrete operations.

We have read your findings and **disagree with Finding #13** stating noise, vibration and dust generated by the existing gravel pit is acceptable and that the addition of the batch plant to these concerns will be minimal. If you base your findings on the number of complaints made by neighbors currently, please consider that many of us have accepted the noise, vibration and dust generated and are not "complainers". We have trusted that the November, 2010 agreement to allow the pit with the strict limitations on the creation of asphalt/concrete were made in good faith and would be respected. **We have experienced a significant increase in noise and dust since the pit began operation at our home two miles south of the pit.**

We are also very concerned with your anticipated possible 30% increase of traffic and resultant vehicle noise on Farm to Market Road noted in Finding #12, as the noise can be very significant at the present time. You also anticipate possible contamination of ground water that is so important to our health and agricultural lands in this residential part of the Flathead Valley.

Please hear our concerns and objections, and those of our neighbors and deny the request to modify a condition of approval to allow an asphalt/concrete batch plant in our residential neighborhood.

Thanks for your consideration of our concerns,

Ed and Barbara Myers
180 West Valley Acres
Kalispell, Montana 59901

Handwritten signatures of Ed and Barbara Myers in black ink. The signature of Ed is above the signature of Barbara.

AUG - 3 2020

Mary Fisher

From: Kathleen Johnson <sapphirefit@yahoo.com>
Sent: Monday, August 3, 2020 11:31 AM
To: Planning.Zoning
Subject: Re: FCU-20-04



August 3, 2020

Dear Board of Adjustment Members,

I am writing to express my opposition to FCU-20-04. I am a teacher at West Valley School. I believe an industrial entity, such as a batch plant, does not belong in our school and neighborhood community due to the health and safety reasons listed in previous emails. In addition, I went to look at property yesterday, and when I saw that it was directly across the highway from the gravel pit and potential sight for a batch plant, I immediately ruled it out as a potential home sight.

A batch plant in this area is potentially harmful to children and hurts the community. The benefit is to the few and the harm to many.

Thank you for taking the time to read our emails.

Sincerely,
Kathleen Johnson

Mary Fisher

From: CHARLES HUNTER <hunter3490@centurylink.net>
Sent: Monday, August 3, 2020 10:48 AM
To: Planning.Zoning
Subject: West Valley Batch Plant



Dear Board of Adjustment Members,

I am writing to express my opposition to FCU-20-04, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. This gravel pit lies within the West Valley Zoning District. Allowing gravel and/or concrete batch plants in West Valley would go against one of the underlying goals of the West Valley Neighborhood Plan, adopted in 1997.

I would like to ask the board a question or two before they decide on this matter.

- 1) Is the board willing to put into place should they approve a Batch plant on the location a stipulation that when the ground water is contaminated by this batch plant the said owners of the plant would have to pay in full for any and all water deliveries to local residence. It seems only fair that should they mess up our good clean water that we rely on to survive that they should have to cover the costs of bring in clean water.
- 2) In the event of one of the many chemical trucks having an accident who and how will the clean up be handled?
- 3) Is the local Fire Department ready to handle a fire at the plant? Or a spill? We all know they will be the first to respond to anything that happens.
- 4) will the board be requiring a bond be put into place by the owners of the plant to cover any costs that may be incurred due to an accident? And would this bond cover the local land owners not just the county?
- 5) has the board taken the time to look at our neighborhood? I mean really look at it, not just look at a map. There are a lot of houses being built out

here. Which in turns means a lot of new families with children. Would you want to risk your children's health growing up next to something like this?

In closing I oppose this plant, this is a residential area not industrial. We don't need another Brownfield site for our Senators to visit.

Thank you for your time.
Charles Hunter

AUG - 3 2020

Mary Fisher

From: Gena Wilson <genawilson65@gmail.com>
Sent: Saturday, August 1, 2020 8:57 AM
To: Planning.Zoning; Mary Fisher
Subject: West Valley Asphalt Plant Permit

Hello,

We are residents of the West Valley neighborhood and vehemently oppose the proposed asphalt plant. This industrial operation does not fit with the plans permitted by the West Valley Zoning District and would be a great detriment to the residential nature of the area. Safety concerns regarding truck traffic, water/environmental issues, and decreased property values, all contribute to our opposition to this project.

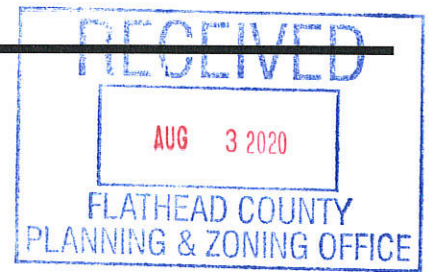
Please listen to the residents of the area and DON'T APPROVE this permit.

Thank you,
Gena and Mitch Wilson



Mary Fisher

From: Frank & Linda de Kort <dekort@montanasky.com>
Sent: Saturday, August 1, 2020 12:19 PM
To: Planning.Zoning
Subject: FCU 20 04



To: Flathead County Board of Adjustment members, Cal Dyck, Gina Klempel,
Ole Netterberg, Roger Nobel, Tobias Liechti.

From: Frank and Linda de Kort, 1290 Lost Creek Drive, Kalispell

Re: FCU-20-04

Date: August 1, 2020

We are residents of West Valley and we request that you deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road. We submitted a letter to the Board of Adjustments regarding this application in May of this year. Since then the Planning Office has deemed to listen to the West Valley Land Owners Advisory Committee and has revamped their original staff report. The applicant has also submitted supplemental information. Despite these meager efforts we continue to have major objections to omissions in the so called "findings of facts" submitted in the staff report by Planner: MM, dated July 17, 2020.

We are particularly concerned about Finding #3 which states unequivocally that "There does not appear to be environmental constraints on the property .."

This finding seems to be based on the premise that the Flathead County Health Department did not weigh in on this issue. That lack of response from our public health official could most likely be attributed to the changing of the guard and most especially to the focus on Covid – 19 at this crucial time. If the health community had weighed in and if the staff had dug deeper it would be apparent that an asphalt plant does not belong in a area that has become substantially residential. Asphalt contains toxic materials. We would like to present the following findings:

1. Hot mix asphalt plant fumes contain polycyclic aromatic hydrocarbon (PAH) according to the Journal of Environmental Engineering and Science. The Agency for Toxic Substance and Disease Registration Agency for Toxic Substance and Disease Registration <<https://www.atsdr.cdc.gov/>> states that the carcinogenicity of certain PAHs is well established in laboratory animals. Increased incidences of lung, skin, and bladder cancers are associated with occupational exposure to PAHs. After chronic exposure, the non-carcinogenic effects of PAHs involve primarily the pulmonary, gastrointestinal, renal, and dermatologic systems. In addition, animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system.

2. According to the Occupational Safety and Health Administration health effects from exposure to asphalt fumes include headache, skin rash, sensitization, fatigue, reduced appetite, throat and eye irritation, cough, and skin cancer.

3. The Office of Air Quality of EPA reports that: The primary emission sources associated with Hot Mix Asphalt (HMA) plants are substantially greater than those produced by the existing gravel extraction. The dryers, hot bins, and mixers, emit particulate matter (PM) and a variety of gaseous pollutants. Other emission sources found at HMA plants include storage silos, which temporarily hold the HMA; truck load-out operations, in which the HMA is loaded into trucks for hauling to the job site; liquid asphalt storage tanks; hot oil heaters, which are used to heat the asphalt storage tanks; and yard emissions, which consist of fugitive emissions from the HMA in truck beds. Emissions also result from additional vehicular traffic on paved and unpaved roads, aggregate storage and handling operations, and vehicle exhaust.

4. According to the federal Occupational Safety and Health Administration, "Asphalt plants are known to produce toxic air pollutants, including arsenic, benzene, formaldehyde, and cadmium, that may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation.

"Asphalt paving workers, for example, have reported breathing problems,

asthma, bronchitis, and skin irritation, according to OSHA, and studies have reported lung, stomach, and skin cancers following chronic exposures to asphalt fumes.” 5. According to the National Institute for Occupational Safety and Health: asphalt fumes are considered potential occupational carcinogens. 6. The federal Environmental Protection Agency states "Asphalt processing are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation. Asphalt plants mix gravel and sand with crude oil derivatives to make the asphalt used to pave roads, highways, and parking lots across the country. These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates.”

We trust that you will consider these findings and their reliable sources. The Planning Office has argued that the permitting process need not consider these major health issues. They pass that significant duty to the State Department of Environmental Quality. We urge you to take the responsibility as a local agency to protect the health of our community members. An asphalt plant does not belong in a residential area that is also in close proximity to our elementary school.

Sincerely,

Frank and Linda de Kort
1290 Lost Creek Drive
Kalispell, Montana 59901

Tele: 406 755 3704

Mary Fisher

From: Frank & Linda de Kort <dekort@montanasky.com>
Sent: Saturday, August 1, 2020 12:34 PM
To: Mark Mussman; Planning.Zoning
Subject: FCU-20-40
Attachments: letter to BOA august 2020.docx



We are resending this letter because the format of the previous one we just sent seems to be off. We have also attached the letter with proper formatting. Thanks. Sorry for the confusion.

To: Flathead County Board of Adjustment members, Cal Dyck, Gina Klempel,
Ole Netterberg, Roger Nobel, Tobias Liechti.

From: Frank and Linda de Kort, 1290 Lost Creek Drive, Kalispell

Re: FCU-20-04

Date: August 1, 2020

We are residents of West Valley and we request that you deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road. We submitted a letter to the Board of Adjustments regarding this application in May of this year. Since then the Planning Office has deemed to listen to the West Valley Land Owners Advisory Committee and has revamped their original staff report. The applicant has also submitted supplemental information. Despite these meager efforts we continue to have major objections to omissions in the so called "findings of facts" submitted in the staff report by Planner: MM, dated July 17, 2020.

We are particularly concerned about Finding #3 which states unequivocally that "There does not appear to be environmental constraints on the property .."

This finding seems to be based on the premise that the Flathead County Health Department did not weigh in on this issue. That lack of response from our public health official could most likely be attributed to the changing of the guard and most especially to the focus on Covid – 19 at this crucial

time. If the health community had weighed in and if the staff had dug deeper it would be apparent that an asphalt plant does not belong in a area that has become substantially residential. Asphalt contains toxic materials. We would like to present the following findings:

1. Hot mix asphalt plant fumes contain polycyclic aromatic hydrocarbon (PAH) according to the *Journal of Environmental Engineering and Science*. The *Agency for Toxic Substance and Disease Registration Agency for Toxic Substance and Disease Registration* <<https://www.atsdr.cdc.gov/>> states that the carcinogenicity of certain PAHs is well established in laboratory animals. Increased incidences of lung, skin, and bladder cancers are associated with occupational exposure to PAHs. After chronic exposure, the non-carcinogenic effects of PAHs involve primarily the pulmonary, gastrointestinal, renal, and dermatologic systems. In addition, animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system.

2. According to the *Occupational Safety and Health Administration* health effects from exposure to asphalt fumes include headache, skin rash, sensitization, fatigue, reduced appetite, throat and eye irritation, cough, and skin cancer.

3. The *Office of Air Quality of EPA* reports that: The primary emission sources associated with Hot Mix Asphalt (HMA) plants are substantially greater than those produced by the existing gravel extraction. The dryers, hot bins, and mixers, emit particulate matter (PM) and a variety of gaseous pollutants. Other emission sources found at HMA plants include storage silos, which temporarily hold the HMA; truck load-out operations, in which the HMA is loaded into trucks for hauling to the job site; liquid asphalt storage tanks; hot oil heaters, which are used to heat the asphalt storage tanks; and yard emissions, which consist of fugitive emissions from the HMA in truck beds. Emissions also result from additional vehicular traffic on paved and unpaved roads, aggregate storage and handling operations, and vehicle exhaust.

4. According to the federal *Occupational Safety and Health Administration*, "Asphalt plants are known to produce toxic air pollutants, including arsenic, benzene, formaldehyde, and cadmium, that may cause cancer, central

nervous system problems, liver damage, respiratory problems and skin irritation. "Asphalt paving workers, for example, have reported breathing problems, asthma, bronchitis, and skin irritation, according to OSHA, and studies have reported lung, stomach, and skin cancers following chronic exposures to asphalt fumes."

5. According to the National Institute for Occupational Safety and Health: asphalt fumes are considered potential occupational carcinogens.

6. The federal Environmental Protection Agency states "Asphalt processing are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation. Asphalt plants mix gravel and sand with crude oil derivatives to make the asphalt used to pave roads, highways, and parking lots across the country. These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates."

We trust that you will consider these findings and their reliable sources. The Planning Office has argued that the permitting process need not consider these major health issues. They pass that significant duty to the State Department of Environmental Quality. We urge you to take the responsibility as a local agency to protect the health of our community members. An asphalt plant does not belong in a residential area that is also in close proximity to our elementary school.

Sincerely,

Frank and Linda de Kort
1290 Lost Creek Drive
Kalispell, Montana 59901

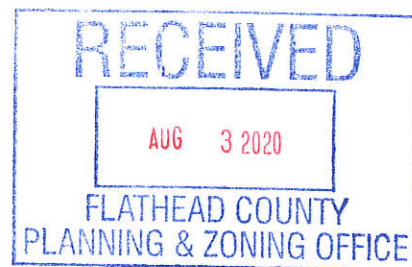
Tele: 406 755 3704

Mary Fisher

From: jeaolson@cyberport.net
Sent: Saturday, August 1, 2020 4:28 PM
To: Mary Fisher
Cc: Planning.Zoning
Subject: Opposition to FCU-20-04

We appreciate the additional information in the revised report, but still consider it very inadequate. To put it very briefly, West Valley is a rural residential area and heavy industrial uses such as an asphalt plant have no place in a residential area, rural or otherwise. The West Valley Neighborhood plan, which we worked on, was designed to preserve West Valley for agriculture, forestry, and rural residential use, and to exclude heavy industrial use, we trust you will continue to be guided by this plan.
Thank you

Dan and Jeanne Olson
160 West Valley Acres
Kalispell, MT



Mary Fisher

From: kathy ross <mtkat67@gmail.com>
Sent: Sunday, August 2, 2020 11:38 AM
To: Mary Fisher
Subject: Asphalt plant

To whom it may concern.

Please do not allow the asphalt plant to happen in West Valley. The personal rights of clean air, quiet, clean water, health of so many people who have made a life in west valley will be jeopardized by something as offensive as this plant for the benefit of a few. It is a sad day that this even needs to be addressed.

I hope the Board will do the right thing

Thank you for your time.

Kathy Ross



Mary Fisher

From: Babby M <munchybear@live.com>
Sent: Sunday, August 2, 2020 12:47 PM
To: Mark Mussman; Planning.Zoning
Subject: FW: Proposed Asphalt Plant

From: [Babby M](#)
Sent: Sunday, August 2, 2020 12:39 PM
To: [Babby M](#)
Subject: Proposed Asphalt Plant



August 1, 2020

Dear Board of Adjustment Members:

I am opposed to Schellinger's request to amend FCU-05—07 to remove the prohibition of batch plants. This application is requesting a modification of one of the conditions of approval of the original permit FCU-05-07 which reads that "asphalt and concrete batch plants are prohibited." The property is zoned 'WV West Valley'. West Valley is defined as, "A district to promote orderly growth and development in the West Valley area consistent with the community vision statements as expressed by the text and map exhibits of the West Valley Neighborhood Plan, County Resolution #1226-A.

The West Valley Zoning regulations define the West Valley as residential and the Montana Supreme Court Decision of November, 2010 explicitly states that "asphalt and concrete batch plant operations are prohibited."

As property owners directly to the south of the gravel pit across Church Drive, our concerns are many:

1. The air quality from the odors and fumes from an asphalt plant will adversely impact property owners, livestock, and wildlife. Our health would be greatly at risk.
2. Traffic has already greatly increased on Church Drive and Farm to Market since 2010 and with the addition of an asphalt plant will increase significantly more affecting everyone's safety.
3. Fire danger is a major concern should there be a hot oil, fuel spill or fire at the plant. Can the volunteer fire department handle such a disaster? How will it affect our water supply?
4. Property values will decline significantly with the addition of a batch plant.
5. The size of the proposed asphalt plant is the size of the expo building and cannot be concealed by berms and small newly planted trees. These have no place in the West Valley skyline.
6. West Valley has become increasingly residential with many homes and subdivisions surrounding the gravel pit. The neighborhood impact from an asphalt plant is substantial and not adequately addressed in the staff report.

7. Potential ground water contamination is a major concern. There needs to be a water quality report study.
8. Heavy industrial uses have no place in a residential area ever.

We implore you to protect the health and safety of the residents and all creatures great and small in the West Valley community and to vote no on Tuesday August 4. An asphalt plant does not belong in a residential area and especially one that is in close proximity to a school.

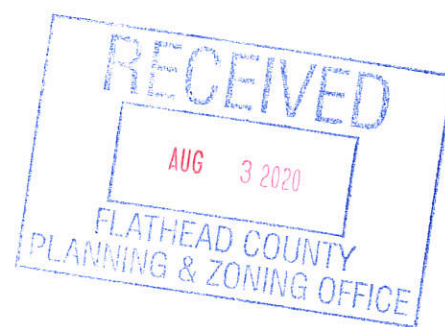
Sincerely,

Babby McCartney and Klaus Kleinke
3603 and 3575 Farm to Market Road
Kalispell, MT 59901

Mary Fisher

From: Jim and Kathy <jkkola@centurytel.net>
Sent: Sunday, August 2, 2020 12:47 PM
To: Mark Mussman; Mary Fisher; Planning.Zoning
Subject: Conditional use permit by Schellinger Construction for asphalt and concrete batch plants in West Valley Zoning District
Attachments: Asphalt1.docx

Sent from [Mail](#) for Windows 10



Date: August 1, 2020

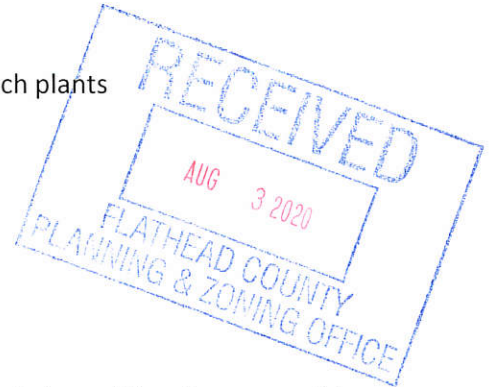
To: Mark Mussman, Flathead County Planning and Zoning

Subject: Conditional Use Permit for Schellinger asphalt and concrete batch plants

From: Jim and Kathy Kola

158 West Valley Acres

Kalispell, MT 59901



Dear Mr. Mussman and Flathead County Planning and Zoning Board:

We are writing to let you know we are **opposed** to a request for an amended conditional use permit by Schellinger Construction and Section 16 Family Limited Partnership/Linda Tutvedt which would allow asphalt and concrete batch plants in the West Valley Zoning District.

Some reasons for our opposition:

1. Asphalt and concrete batch plants are heavy polluters of air quality and ground water; also hauling of these products contributes to surface soil contamination.
2. Increased truck traffic on Farm to Market Road and Church Drive could result in spills and also a danger to children attending West Valley School.
3. Noise from the area would increase with the need to crush more gravel and batch plants operating.
4. West Valley zoning will be significantly changed when other gravel pits and other potential gravel pits apply for the same type of plants. Note: existing gravel pits already in West Valley Neighborhood are LHC West Valley Pit, North of Church Drive on West Valley Drive and also Krueger Pit property off Church Drive at 2440 West Springcreek Road. The Kruegers had previously applied for a conditional use permit for a concrete batch plant in 2010. Also the two above pits and the Schellinger Pit are within a one mile radius circle from the intersection of Church Drive and West Valley Drive. **Three gravel pits that close in a residential area should be enough without adding batch plants.**
5. The definition of gravel extraction needs to be considered: By definition from a dictionary: A gravel pit is an open-pit mine for gravel extraction. Nowhere are asphalt and concrete plants mentioned in the definition. Did you look back at how the new definition came about? It is interesting to see how politics entered into the new definition and who it would favor in future conditional use permit applications.

Do not change or modify the original Conditional Use Permit!

This has been and we hope it will continue to be a family oriented neighborhood.

Thank you for your time and service.

Sincerely,

Jim and Kathy Kola

Mary Fisher

From: Sandy Montgomery <csmont128@outlook.com>
Sent: Sunday, August 2, 2020 1:40 PM
To: Mary Fisher; Planning.Zoning
Subject: REVISED Planning Report #FCU 08-07 to the Board of Adjustment (BOA)

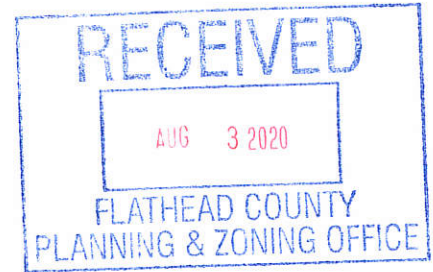
As residence of the West Valley for nearly 20 years, we deeply believe that if this **asphalt plant** is allowed, the county officials are no longer acting in best the interests of the valley residence. It is becoming more and more apparent the beauty and uniqueness of this wonderful valley is being destroyed. With so many gravel pits already located in this small 5 square mile area, is it necessary to now add a health hazard. We already endure constant truck gravel truck traffic, too narrow of roads for said truck traffic. Too much dust on West Valley near 1 existing gravel pit. The county makes no attempt to abate the dust on either West Valley or Lost Creek that is a common thru road to Hwy 93 and the Landfill. In the past Planning/Zoning had stated that the area around Farm to Market, Church Dr., Lost Creek Road to Kuhns Road was minimum of 5 acre parcels. Now there are lots less than 1 acre. When the gravel pit on Farm to Market was granted... it was stated "NO Asphalt processing." Should be end of story. But here we are. Breaking down of acreage from 5 acres to less than 1 acre was bad but not life threatening. This Asphalt plant can affect so much that cannot be recovered. Air Quality, Water Quality, Property Values, OUR HEALTH! What makes Montana ... Montana! The Last BEST Place is quickly vanishing. Planning, Zoning, Board of Adjustment members are you being responsible? Residence.... Craig and Sandy Montgomery
Sent from [Mail](#) for Windows 10



Mary Fisher

From: Mary Kay Wilson <marykayw@canvaschurch.com>
Sent: Sunday, August 2, 2020 3:30 PM
To: Mary Fisher; Planning.Zoning
Subject: Public input FCU 08-07 West Valley asphalt plant

To: Flathead County Board of Adjustment
Re: FCU 08-07
August 2, 2020



Mary Kay and Greg Wilson
406-253-4127
288 Shepherd Trail
Kalispell, MT

We respectfully request the Board of Adjustment to deny this modification to the existing permit as this CUP is not in alignment with the residential/agricultural nature of the neighborhood, and has been litigated exhaustively through the court system in Montana.

The switch from agricultural/residential zoning to an industrial designation that is CUP is requesting would negatively impact the many new subdivisions that have been approved by the planning board.

Negative impacts include:

- Property values being significantly reduced
- Increase of traffic, especially trucks carrying hazardous material on an already busy road
- Potential harm to ground water supply through leaching or spilling of hazardous materials
- Potential decrease in air quality from emissions and odors of plant
- Proximity to large elementary school should evacuation need to take place
- Fire danger and need to use sophisticated and toxic chemicals to control a petroleum based fire

We have also had concerns that the existing operation of the gravel pit has not been following requirement established from previous rulings, including berms around the entire operation, including landscaping and fencing.

Industrialization and increased commercial operations have a place in our valley, but not in this West Valley residential neighborhood. Please deny this CUP.

Mary Kay and Greg Wilson
gmkwilson90@gmail.com

Mary Fisher

From: Ken Butts <mtxport@yahoo.com>
Sent: Sunday, August 2, 2020 4:38 PM
To: Mary Fisher; Planning.Zoning
Subject: Asphalt permit



Hello

I wish to write to you today in opposition of the proposed asphalt plant in the West Valley. It goes against the original agreement that was made & I believe it would be seriously detrimental to our area. The traffic, dust & noise that we currently experience with the gravel pit is bad enough.

The presence of the asphalt plant would not only turn a rural community into an Industrial zone, it would greatly increase the flow of heavy vehicle traffic, the noise and the smell of such a place in our neighborhoods would not only aggravate us as residents but would also cause property devaluation for a wide area of people. The safety hazards presented by such an installation would far outweigh any perceived advantages and would be undermining our community as a whole.

The agreement was made 10 years ago in good faith & I believe that that agreement must stand as is with no changes or additions that will further depreciate our property's and life styles!

NO Asphalt plant in West Valley, Please!

Thank you.

Mary Fisher

From: Max Hinrichs <madmax1@mtintouch.net>
Sent: Sunday, August 2, 2020 5:55 PM
To: Planning.Zoning
Subject: Opposed to Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

August 2, 2020

To Flathead Planning Board,

I am a residential home property owner at 1850 Church Drive Kalispell, MT. I am in opposition of the proposed Schellinger Construction Company "Section 16 family Partnership" concrete/asphalt plant that is requesting change of its current gravel pit operation. A concrete/asphalt plant is an entirely different operation than the gravel pit that is currently operating. The air pollution created by an expansion to a concrete/asphalt plant operation is very toxic. It can affect air and area water quality. There would also be added excessive noise and truck traffic on Farm to Market Road in the residential property owners' area of the West Valley and the nearby West Valley Public School area. This type of operation would also severely harm property values of West Valley area due to this expanded operation.

Please do permit this operation in a residential and agriculture area of the Flathead Valley.
Respectfully,

Max F. Hinrichs
Residential home property owner
1850 Church Drive
Kalispell, MT 59501



Mary Fisher

From: Max Hinrichs <madmax1@mtintouch.net>
Sent: Sunday, August 2, 2020 5:58 PM
To: Mary Fisher
Subject: Fw: Opposed to Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

August 2, 2020

To Flathead BOA Planning Board,

I am a residential home property owner at 1850 Church Drive Kalispell, MT. I am in opposition of the proposed Schellinger Construction Company "Section 16 family Partnership" concrete/asphalt plant that is requesting change of its current gravel pit operation. A concrete/asphalt plant is an entirely different operation than the gravel pit that is currently operating. The air pollution created by an expansion to a concrete/asphalt plant operation is very toxic. It can affect air and area water quality. There would also be added excessive noise and truck traffic on Farm to Market Road in the residential property owners' area of the West Valley and the nearby West Valley Public School area. This type of operation would also severely harm property values of West Valley area due to this expanded operation.

Please do permit this operation in a residential and agriculture area of the Flathead Valley.
Respectfully,

Max F. Hinrichs
Residential home property owner
1850 Church Drive
Kalispell, MT 59501



Mary Fisher

From: McGregor Rhodes <mrhodes50@gmail.com>
Sent: Sunday, August 2, 2020 9:21 PM
To: Planning.Zoning
Subject: Asphalt plant and concrete batch plant-

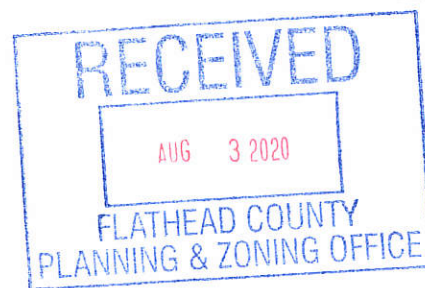
Hello, I have been working for 50 years now and I know the value of work but the West Valley is not the place for industrial development like this project, It will only be a matter of time until the aquifer is polluted with oil and diesel fuel, the air will stink, traffic will be worse and unsafe, property values of all of us people in the West Valley will go down, there will be a lot of noise and dust and the project should not be allowed to happen. This is an agricultural and residential area so please vote no on this project-- You would not want an asphalt plant near where you live. so please help us in the West Valley.-- Thank you for listening to me.
McGregor Rhodes--644 Bald Rock. Road



Virus-free. www.avg.com

Mary Fisher

From: angie clark <angietomclark@yahoo.com>
Sent: Sunday, August 2, 2020 11:43 PM
To: Mark Mussman
Cc: Mary Fisher
Subject: Letter to the Board of Adjustment



Board of Adjustment Members:

I am writing in opposition to the request for a conditional use change to the current FCU-20-04 Tudvedt Gravel Pit Batch Plant Amendment.

The staff report is severely inadequate and totally flies in the face of the West Valley Neighborhood Plan.

The traffic report sent in by the applicant is a joke and filled with many false facts and it is obvious that the person writing it was paid to do it so that it slants in the favor of the applicant. The amount of vehicles it claims to drive on Farm to Market is a joke.

The water study has not been updated since 2008. They have no plans whatsoever to protect our water from the pollutants and waste runoff that will destroy our aquifer.

The West Valley Volunteer Fire Department cannot handle a potential disaster should something happen. Saturday night (8/1/2020) there was a fire on Rhodes Draw, The WVVD was unable to handle a house fire by them selves. The Kalispell Fire Department, Smith Valley Fire Department and I believe the Evergreen Fire Department had to assist as the house was burning. This was an unfortunate house fire. They do the best they can but an oil/diesel is beyond their capabilities much less all the chemicals and toxic waste that comes with the making of asphalt.

The intent of the West Valley Plan was to keep industrial usage out of our neighborhood. Tutvedts, Schillenger, the county of Flathead and the West Valley neighbors AGREED to this after the court decision.

We have no reason whatsoever to trust anything they say they will do to protect our neighborhood. Now Linda Tutvedt is saying in the future they are going to recycle asphalt and concrete. But out the other side of her mouth she is saying this is not going to affect us! When does it end?

They do not follow the rules of the Cup as it is!!!! And apparently they have been "self policing themselves" very well as there have been no penalties or fines. Between them "self policing" and the county's "drive bys" the enforcement is a joke.

Please do the right thing and vote no on this atrocious request. Let us get back to being able to enjoy a clean and healthful environment as guaranteed to us as citizens by the Montana State Constitution.

Thank you for your time,
Angie Clark

Mary Fisher

From: Marcie <build4u8@gmail.com>
Sent: Thursday, July 30, 2020 5:28 PM
To: Planning.Zoning
Subject: CUP for Farm To Market
Attachments: termination of buysell 123 canola due to gravel pit .pdf



Dear Board of Adjustment Member,

I am writing in opposition of the CUP for Schillinger to obtain a permit to include an Asphalt and concrete batch plant.

I have personally already lost a sale due to this and I have 3 other properties under construction next door. I also live a mile down the road.

I bought in West Valley because of the zoning and neighborhood plan and am really concerned about the health of my family if this were approved. This not only effects my potential income but the well being of my family. I am concerning about our private water supply should this be approved. Not to mention the noise this would generate and the loss of property values.

I understand there is a place for a plant such as this but I don't believe it should be in an area of housing and families. West Valley is a rural open land and my understanding is from Zoning that although gravel extraction is allowed, asphalt and concrete are prohibited. We would never have bought any of our properties in West Valley had we known this would be allowed. I would not think I would have had to look any further than zoning and CCR's to know any different.

Please consider denying this CUP as it was denied years ago.

Also please find attache the termination letter my clients sent me terminating their offer to buy a house I was building for them just a few short weeks before closing and their reason is the possibility of this CUP. The property is right next door to the gravel extraction plant.

Sincerely,
Marcie Macura



PureWest

CHRISTIE'S
INTERNATIONAL REAL ESTATE

TERMINATION OF BUY-SELL AGREEMENT

(Mutual Agreement)

Date: 07/14/2020

In reference to a certain Buy-Sell Agreement (hereafter the "Agreement") dated 06/30/2020
 between Peter D Hood & Katherine S Hood (hereafter the "Buyer")
 and XW Consulting LLC (hereafter the "Seller")
 concerning the following described property: 123 Canola Road
Kalispell MT 59901

Buyer and Seller agree to terminate the Agreement effective immediately and upon completion of the disbursement of earnest money, if any, neither party shall have any further liability or obligation to the other party, their heirs or assigns.

Seller and Buyer authorize holder of the earnest money deposit to disburse \$ 6,000.00 as follows:

\$ 6,000.00 Payable to: Peter D Hood & Katherine S Hood ☒ Buyer ☐ Seller
☐ Mail Check to: Address: _____
 City: _____ State _____ Zip _____
☐ Hold check for pickup by: ☐ Payee ☐ Other: _____
☒ Electronic transfer (Wire/ACH/Third Party/Other): Payee to provide instructions directly and securely to holder of earnest money and pay required fee.

\$ _____ Payable to: _____ ☐ Buyer ☐ Seller
☐ Mail Check to: Address: _____
 City: _____ State _____ Zip _____
☐ Hold check for pickup by: ☐ Payee ☐ Other: _____
☐ Electronic transfer (Wire/ACH/Third Party/Other): Payee to provide instructions directly and securely to holder of earnest money and pay required fee.

Buyer and Seller release holder of the earnest money deposit, brokerage firm, brokers, salespersons, their employers and employees from any claims, demands or liabilities arising out of or in any way relating to the Agreement.

Authentisign <u>Peter D Hood</u> / <u>07/14/2020</u> Buyer's Signature Date Peter D Hood Authentisign <u>Katherine S Hood</u> / <u>07/14/2020</u> Buyer's Signature Date Katherine S Hood		Authentisign <u>XW Consulting LLC by Marcie Macyna, owner</u> / <u>07/14/2020 5:47:28 PM MDT</u> Seller's Signature Date XW Consulting LLC _____ / _____ Seller's Signature Date	
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NOTE: Unless otherwise expressly stated the term "Days" means calendar days and not business days. Business days are defined as all days except Sundays and holidays. Any performance which is required to be completed on a Saturday, Sunday or holiday can be performed on the next business day.

JUL 31 2020



INSPECTION NOTICE (Results/Remedies)



1 Date: 07/14/2020
 2
 3 IN REFERENCE TO THE BUY-SELL AGREEMENT DATED 06/30/2020,
 4 between XW Consulting LLC (hereafter the "Seller")
 5 and Peter D Hood And Katherine S Hood (hereafter the "Buyer")
 6 for the real property commonly known as 123 Canola Road
 7 Kalispell MT 59901.

8
 9 BUYER HEREBY GIVES NOTICE TO SELLER OF DISAPPROVAL OF THE FOLLOWING ITEMS:
 10 (Copy of the relevant portion of inspections or reports are attached.)
 11 Possible harm and loss of property value that would occur if Flathead County approves the
 12 modification of Schellinger Construction conditional use permit to allow the construction of an
 13 asphalt batch plant in the rock quarry adjacent to properties on Canola Road. Reference to the
 14 Daily Inter Lake article dated July 9, 2020 entitled "Asphalt plant appeal fails on tie vote" by
 15 Kianna Gardner.
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JUL 31 2020

[PDH] / [KH]
 Buyer's Initials

[MM]
 Seller's Initials

53 Buyer gives notice to the Seller as follows (Buyer should check only one box preceding the bolded Buyer language):

54 ☐ **Buyer** elects to negotiate the items of disapproval described above and offers the following resolution:

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79 If Seller and Buyer agree to the remedies specified above, this document shall constitute an amendment to the Buy-
 80 Sell Agreement referred to above and shall be an integral part of this transaction.
 81 Seller shall complete all agreed upon resolution(s) to the condition(s) and problem(s) identified above by
 82 5:00 p.m. (Mountain Time) on _____ (Date).

83 _____ / _____ / _____
 84 (Buyer's Signature) Date (Buyer's Signature) Date

85 Seller agrees to the terms and conditions as stated herein above.

86 *Amendment* 07/14/2020
 87 *XW Consulting LLC by Marcie Macura, owner*
 88 _____ / _____
 89 (Seller's Signature) Date (Seller's Signature) Date
 90 *7/14/2020 6:47:25 PM MDT*
 91 **XW Consulting LLC**

92 ☐ Modified per Inspection Notice (Seller's Response) _____ / _____
 93 Seller's Initials Date

94 ☐ Rejected by Seller _____ / _____
 95 Seller's Initials Date

96 ☒ **Buyer** elects to terminate the Buy-Sell Agreement referred to above. All earnest money shall be returned to the
 97 Buyer and the Buy-Sell Agreement is terminated.

98 *Authentisign* 07/14/2020 *Authentisign* 07/14/2020
 99 *Peter D Hood* / *Katherine S Hood*
 100 (Buyer's Signature) Peter D Hood Date (Buyer's Signature) Katherine S Hood Date
 101 *7/14/2020 6:47:25 PM MDT*

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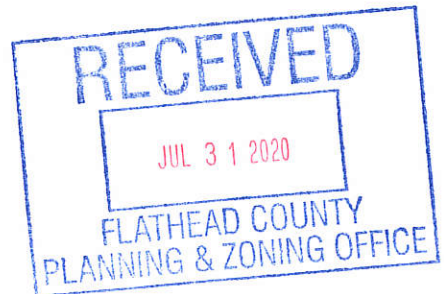
JUL 31 2020

Mary Fisher

From: Marcie <build4u8@gmail.com>
Sent: Thursday, July 30, 2020 8:50 PM
To: Mary Fisher
Subject: Fwd: CUP for Farm To Market
Attachments: termination of buysell 123 canola due to gravel pit .pdf

----- Forwarded message -----

From: **Marcie** <build4u8@gmail.com>
Date: Thu, Jul 30, 2020 at 5:28 PM
Subject: CUP for Farm To Market
To: <Planning.Zoning@flathead.mt.gov>



Dear Board of Adjustment Member,

I am writing in opposition of the CUP for Schillinger to obtain a permit to include an Asphalt and concrete batch plant.

I have personally already lost a sale due to this and I have 3 other properties under construction next door. I also live a mile down the road.

I bought in West Valley because of the zoning and neighborhood plan and am really concerned about the health of my family if this were approved. This not only effects my potential income but the well being of my family. I am concerning about our private water supply should this be approved. Not to mention the noise this would generate and the loss of property values.

I understand there is a place for a plant such as this but I don't believe it should be in an area of housing and families. West Valley is a rural open land and my understanding is from Zoning that although gravel extraction is allowed, asphalt and concrete are prohibited. We would never have bought any of our properties in West Valley had we known this would be allowed. I would not think I would have had to look any further than zoning and CCR's to know any different.

Please consider denying this CUP as it was denied years ago.

Also please find attache the termination letter my clients sent me terminating their offer to buy a house I was building for them just a few short weeks before closing and their reason is the possibility of this CUP. The property is right next door to the gravel extraction plant.

Sincerely,
Marcie Macura



CHRISTIE'S
INTERNATIONAL REAL ESTATE

TERMINATION OF BUY-SELL AGREEMENT (Mutual Agreement)



1 Date: 07/14/2020

2
3 In reference to a certain Buy-Sell Agreement (hereafter the "Agreement") dated 06/30/2020
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5 and XW Consulting LLC (hereafter the "Seller")
6 concerning the following described property: 123 Canola Road
7 Kalispell MT 59901

8
9 Buyer and Seller agree to terminate the Agreement effective immediately and upon completion of the
10 disbursement of earnest money, if any, neither party shall have any further liability or obligation to the other party,
11 their heirs or assigns.

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14
15 \$ 6,000.00 Payable to: Peter D Hood & Katherine S Hood ☒ Buyer ☐ Seller
16 ☐ Mail Check to: Address: _____
17 City: _____ State _____ Zip _____
18 ☐ Hold check for pickup by: ☐ Payee ☐ Other: _____
19 ☒ Electronic transfer (Wire/ACH/Third Party/Other): Payee to provide instructions directly and
20 securely to holder of earnest money and pay required fee.

21
22 \$ _____ Payable to: _____ ☐ Buyer ☐ Seller
23 ☐ Mail Check to: Address: _____
24 City: _____ State _____ Zip _____
25 ☐ Hold check for pickup by: ☐ Payee ☐ Other: _____
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27 securely to holder of earnest money and pay required fee.

28
29 Buyer and Seller release holder of the earnest money deposit, brokerage firm, brokers, salespersons, their
30 employers and employees from any claims, demands or liabilities arising out of or in any way relating to the
31 Agreement.

32 Authentisign
33 Peter D Hood / 07/14/2020
34 Buyer's Signature Date
35 Peter D Hood
36 Authentisign
37 Katherine S Hood / 07/14/2020
Buyer's Signature Date
Katherine S Hood

Authentisign 07/14/2020
XW Consulting LLC by Marcie Macyna, owner
7/14/2020 6:47:28 PM MDT
Seller's Signature Date
XW Consulting LLC

Seller's Signature Date

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JUL 31 2020



INSPECTION NOTICE (Results/Remedies)



1 Date: 07/14/2020

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8

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10 (Copy of the relevant portion of inspections or reports are attached.)

11 Possible harm and loss of property value that would occur if Flathead County approves the
12 modification of Schellinger Construction conditional use permit to allow the construction of an
13 asphalt batch plant in the rock quarry adjacent to properties on Canola Road. Reference to the
14 Daily Inter Lake article dated July 9, 2020 entitled "Asphalt plant appeal fails on tie vote" by
15 Kianna Gardner.

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[PDH] / [KH]

Buyer's Initials

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Inspection Notice, March 2018

Page 1 of 2

[MM]

Seller's Initials

JUL 31 2020

53 Buyer gives notice to the Seller as follows (Buyer should check only one box preceding the bolded Buyer language):

54 ☐ Buyer elects to negotiate the items of disapproval described above and offers the following resolution:

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 80 Sell Agreement referred to above and shall be an integral part of this transaction.
 81 Seller shall complete all agreed upon resolution(s) to the condition(s) and problem(s) identified above by
 82 5:00 p.m. (Mountain Time) on _____ (Date).

83 _____ / _____ / _____
 84 (Buyer's Signature) Date (Buyer's Signature) Date

87 Seller agrees to the terms and conditions as stated herein above.

88 *Remediation* 07/14/2020
 89 *XW Consulting LLC by Marcie Macura, owner* / _____
 90 (Seller's Signature) Date (Seller's Signature) Date
 91 *XW Consulting LLC*

93 ☐ Modified per Inspection Notice (Seller's Response) _____ / _____ / _____
 94 Seller's Initials Date

96 ☐ Rejected by Seller _____ / _____ / _____
 97 Seller's Initials Date

99 ☒ Buyer elects to terminate the Buy-Sell Agreement referred to above. All earnest money shall be returned to the
 100 Buyer and the Buy-Sell Agreement is terminated.

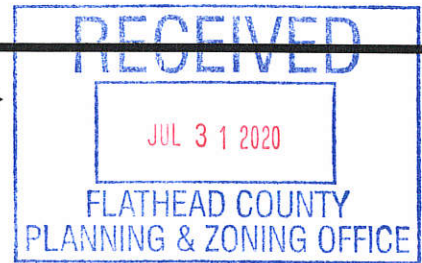
101 *Authentisign* 07/14/2020 *Authentisign* 07/14/2020
 102 *Peter D Hood* / _____ *Katherine S Hood* / _____
 103 (Buyer's Signature) Peter D Hood Date (Buyer's Signature) Katherine S Hood Date

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JUL 31 2020

Mary Fisher

From: Wick, Gretchen <gwick@westvalleyschool.com>
Sent: Thursday, July 30, 2020 7:48 PM
To: Mary Fisher
Subject: Revised Planning Report #FCU 08-07



I am writing to express my concern about the asphalt plant under consideration in West Valley. As a teacher at West Valley School, there are many things about this plan that concern me.

First of all, the applicant presents this proposal as a *temporary operation, but there is a longer-term plan to develop as many as 160-320 acres.*

THIS IS NOT A TEMPORARY PROPOSITION, but an open door to commercialization and industrialization of the West Valley. Drilling, rock crushing, back-up warning beepers on trucks, tailgates banging, noxious odor emitting, asphalt being transported, diesel fumes from trucks --- 12 HOURS PER DAY, including SATURDAY, 7-2pm on Farm-Market and Church Drives. West Valley School within 2 miles.

Hot oil trucks are necessary to manufacture the asphalt on site (30,000 gal fuel tank on site). What hazard does this present if a truck were involved in an accident at the intersection of Farm-to-Market and Reserve? The hot oil would emit gases and fumes whether or not it was actually on fire.

******* TRAFFIC:** The Planning Office report bases its "findings" that "there are generally no traffic impacts on a study done 15 years ago." This is not an acceptable finding as the number of residences, and traffic in the area, has doubled or tripled since this study.

******* WATER/ENVIRONMENTAL CONSTRAINTS:** The Report Finding #3 states: "Ground water contamination concerns appear to be addressed because the 2008 groundwater study concluded the operation does not appear to adversely affect the water quality of the ...aquifer". This is based on information obtained by the applicant, dated 12 Years Ago.

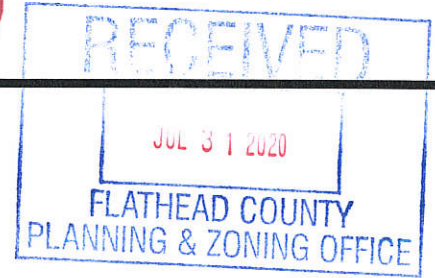
******* VIOLATIONS:** Regarding the existing gravel operation - there have been, throughout the years of operation, and to this day, failure of the owner to comply with the mandated berms and fencing in a way that is effective. **If the asphalt plant is permitted, there is no regulation or oversight by any agency but the operator itself. This presents a clear conflict of interests.**

The serious impacts above represent a RISK to PROPERTY VALUES to the larger surrounding community, and risks to safety, health, and welfare of the residents and children of West Valley School. To date, home buy/sell agreements in WV have been cancelled due to the potential of the asphalt plant being permitted.

Please do NOT go forward with this plan!

Sincerely,

Gretchen Wick



Mary Fisher

From: Wick, Gretchen <gwick@westvalleyschool.com>
Sent: Thursday, July 30, 2020 7:49 PM
To: Planning.Zoning
Subject: Revised Planning Report #FCU 08-07

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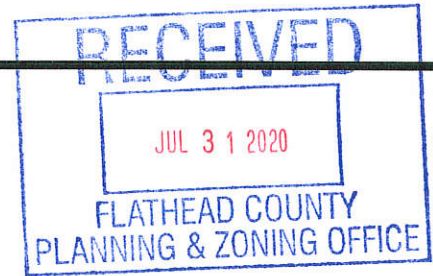
Please do NOT go forward with this plan!

Sincerely,

Gretchen Wick

Mary Fisher

From: Roger Brewer <fishmanbrew@yahoo.com>
Sent: Thursday, July 30, 2020 8:21 PM
To: Mary Fisher
Subject: Schillinger/Tutvedt CUP



TO: Flathead County Board of Adjustments

FROM: Roger Brewer 3025 Farm to Market Rd, Kalispell, MT 59901

RE: Schillinger/Tutvedt CUP revision

DATE: July 30, 2020

As a West Valley resident living within a mile of the proposed Asphalt/Concrete batch plant, I'm asking that you support the residents by denying the request to delete the restriction against an Asphalt/Concrete batch plant. While there are a multitude of reasons for denying the request, I just want to make a couple of points. First there have been repeated violations of the current CUP primarily dealing with hours of operation and fencing and berming requirements. The fact that there is no effective enforcement of the conditions of the permit means that we as residents will be subjected to whatever Schillinger decides to do. I am sure that you are aware that many construction jobs require both asphalt and especially concrete, outside of the hours stipulated in the current CUP. You can't really believe that Schillinger would refer a potential customer to LHC or Knife River because they couldn't have it delivered in accordance with their permitted hours of operation. When establishing conditions for a permit, they sound good but when not enforced, they become meaningless.

The second point comes from reading the staff report which refers to traffic on Farm to Market road, however there will be a large increase in traffic on Church Drive which is not a State Highway and not designed for the truck traffic envisioned for delivery of the hot oil. I and many residents use that route on a regular basis and fear the impact will be much larger than the 2.6% cited.

In conclusion, I am sure you will hear many of the other objections in the August 3rd meeting and I am asking that you provide the protection that we residents need by denying the request.

Mary Fisher

From: Roger Brewer <fishmanbrew@yahoo.com>
Sent: Thursday, July 30, 2020 8:28 PM
To: Planning.Zoning
Subject: Schillinger/Tutvedt CUP



TO: Flathead County Board of Adjustments

FROM: Roger Brewer 3025 Farm to Market Rd, Kalispell, MT 59901

RE: Schillinger/Tutvedt CUP revision

DATE: July 30, 2020

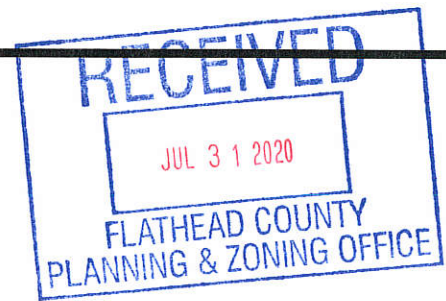
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In conclusion, I am sure you will hear many of the other objections in the August 3rd meeting and I am asking that you provide the protection that we residents need by denying the request.

Mary Fisher

From: Larry Tahler <larry@tahler.com>
Sent: Thursday, July 30, 2020 8:58 PM
To: Mary Fisher
Subject: West Valley Asphalt Permit



*******NEIGHBORHOOD IMPACT:** The proposed operation would be a massive *INDUSTRIAL* operation in the heart of residential West Valley, not permitted by the WV Zoning District

The applicant presents this proposal as a *temporary operation*, but if you look at the following (attached), there is a longer-term plan to develop as many as **160-320 acres**.

THIS IS NOT A TEMPORARY PROPOSITION, but an open door to commercialization and industrialization of the West Valley. *Drilling, rock crushing, back-up warning beepers on trucks, tailgates banging, noxious odor emitting, asphalt being transported, diesel fumes from trucks --- 12 HOURS PER DAY, including SATURDAY, 7-2pm on Farm-Market and Church Drives. West Valley School within 2 miles.*

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******* TRAFFIC:** The Planning Office report bases its "findings" that "there are generally no traffic impacts on a study done 15 years ago." This is not an acceptable finding as the number of residences, and traffic in the area, has doubled or tripled since this study.

******* WATER/ENVIRONMENTAL CONSTRAINTS:** The Report Finding #3 states: "Ground water contamination concerns appear to be addressed because the 2008 groundwater study concluded the operation does not appear to adversely affect the water quality of the ...aquifer". This is based on information obtained by the applicant, dated 12 Years Ago.

*******VIOLATIONS:** Regarding the existing gravel operation - there have been, throughout the years of operation, and to this day, failure of the owner to comply with the mandated berms and fencing in a way that is effective. **If asphalt plant is permitted, there is no regulating or oversight by any agency but the operator itself.**

The serious impacts above represent a **RISK to PROPERTY VALUES** to the larger surrounding community, and risks to safety, health, and welfare of the residents and children of West Valley School.
To date, home buy/sell agreements in WV have been cancelled due to the potential of the asphalt plant being permitted.

Lawrence Tahler
2860 Farm to Market Road

Mary Fisher

From: Jessica J. <jjacobson512@gmail.com>
Sent: Thursday, July 30, 2020 10:27 PM
To: mfisher@flathead.mt
Cc: Planning.Zoning
Subject: REVISED Planning Report #FCU 08-07



To the Board of Adjustment,

I am a resident of the West Valley and I strongly object to the to FCU-20-04 plan, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. This gravel pit lies within the West Valley Zoning District. Allowing gravel and/or concrete batch plants in West Valley would go against one of the underlying goals of the West Valley Neighborhood Plan, adopted in 1997. I object for the following reasons:

NEIGHBORHOOD IMPACT: The proposed operation would be a massive *INDUSTRIAL* operation in the heart of residential West Valley, not permitted by the WV Zoning District

The applicant presents this proposal as a *temporary operation*, but if you look at the following (attached), there is a longer-term plan to develop as many as **160-320 acres**.

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Hot oil trucks are necessary to manufacture the asphalt on site (30,000 gal fuel tank on site). What hazard does this present if a truck were involved in an accident at the intersection of Farm-to-Market and Reserve? The hot oil would emit gases and fumes whether or not it was actually on fire.

TRAFFIC: The Planning Office report bases its "findings" that "there are generally no traffic impacts on a study done 15 years ago." This is not an acceptable finding as the number of residences, and traffic in the area, has doubled or tripled since this study.

WATER/ENVIRONMENTAL CONSTRAINTS: The Report Finding #3 states: "Ground water contamination concerns appear to be addressed because the 2008 groundwater study concluded the operation does not appear to adversely affect the water quality of the ...aquifer". This is based on information obtained by the applicant, dated 12 Years Ago.

VIOLATIONS: Regarding the existing gravel operation - there have been, throughout the years of operation, and to this day, failure of the owner to comply with the mandated berms and fencing in a way that is effective. **If asphalt plant is permitted, there is no regulating or oversight by any agency but the operator itself.**

The serious impacts above represent a **RISK to PROPERTY VALUES** to the larger surrounding community, and risks to safety, health, and welfare of the residents and children of West Valley School. *To date, home buy/sell agreements in WV have been cancelled due to the potential of the asphalt plant being permitted.*

Thank you for your consideration of my fellow neighbors, friends, and our neighborhood/ environment.

Jessica Jacobson

601 Sawmill Lane
Kalispell, MT 59901

JUL 31 2020

Mary Fisher

From: Jessica J. <jjacobson512@gmail.com>
Sent: Friday, July 31, 2020 10:36 AM
To: Planning.Zoning
Cc: mfisher@flathead.mt
Subject: REVISED Planning Report #FCU 08-07



To the Board of Adjustment,

I am a resident of the West Valley and I strongly object to the to FCU-20-04 plan, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. This gravel pit lies within the West Valley Zoning District. Allowing gravel and/or concrete batch plants in West Valley would go against one of the underlying goals of the West Valley Neighborhood Plan, adopted in 1997.

I object for the following reasons:

NEIGHBORHOOD IMPACT: The proposed operation would be a massive *INDUSTRIAL* operation in the heart of residential West Valley, not permitted by the WV Zoning District

The applicant presents this proposal as a *temporary operation*, but if you look at the following (attached), there is a longer-term plan to develop as many as **160-320 acres**.

THIS IS NOT A TEMPORARY PROPOSITION, but an open door to commercialization and industrialization of the West Valley. Drilling, rock crushing, back-up warning beepers on trucks, tailgates banging, noxious odor emitting, asphalt being transported, diesel fumes from trucks --- 12 HOURS PER DAY, including SATURDAY, 7-2pm on Farm-Market and Church Drives. West Valley School within 2 miles.

Hot oil trucks are necessary to manufacture the asphalt on site (30,000 gal fuel tank on site). What hazard does this present if a truck were involved in an accident at the intersection of Farm-to-Market and Reserve? The hot oil would emit gases and fumes whether or not it was actually on fire.

TRAFFIC: The Planning Office report bases its "findings" that "there are generally no traffic impacts on a study done 15 years ago." This is not an acceptable finding as the number of residences, and traffic in the area, has doubled or tripled since this study.

WATER/ENVIRONMENTAL CONSTRAINTS: The Report Finding #3 states: "Ground water contamination concerns appear to be addressed because the 2008 groundwater study concluded the operation does not appear to adversely affect the water quality of the ...aquifer". This is based on information obtained by the applicant, dated 12 Years Ago.

VIOLATIONS: Regarding the existing gravel operation - there have been, throughout the years of operation, and to this day, failure of the owner to comply with the mandated berms and fencing in a way that is effective. **If asphalt plant is permitted, there is no regulating or oversight by any agency but the operator itself.**

The serious impacts above represent a RISK to PROPERTY VALUES to the larger surrounding community, and risks to safety, health, and welfare of the residents and children of West Valley School. To date, home buy/sell agreements in WV have been cancelled due to the potential of the asphalt plant being permitted.

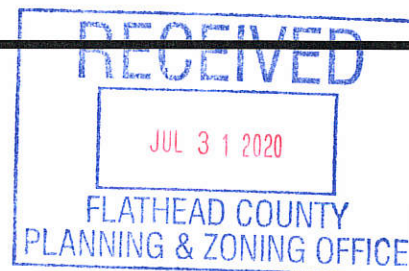
Thank you for your consideration of my fellow neighbors, friends, and our neighborhood/ environment.

Jessica Jacobson
601 Sawmill Lane
Kalispell, MT 59901

JUL 31 2020

Mary Fisher

From: mtn5 <mtn5@sonic.net>
Sent: Thursday, July 30, 2020 11:00 PM
To: Planning.Zoning
Subject: Please deny FCU-20-04



July 30, 2020

Dear Board of Adjustment Members,

We are writing to express our opposition to FCU-20-04, a request to amend FCU-05-07 to remove the prohibition of batch plants.

- Asphalt and concrete batch plants are heavy industrial and are not permitted per the West Valley Neighborhood Plan.
- This proposed plant is in a residential zone and would adversely affect the residents' property values.
- There would be increased heavy truck traffic carrying toxic materials.
- The proposed plant will produce dangerous fumes and contaminate the aquifer below it.
- There is an increased risk of fire with only a volunteer fire department to serve this proposed plant.

Please deny FCU-20-04.

Best regards,
Tom and Jan Finkle
64 Wendt Way
Kalispell, MT 59901

Mary Fisher

From: Mary Jo Gardner <mjgardner1234@gmail.com>
Sent: Friday, July 31, 2020 7:11 AM
To: Mary Fisher
Subject: WV asphalt plant

We must protect this lovely area from heavy and harmful industry. NO to the batch plant.

--

Mary Jo Gardner
1230 5th Avenue East
Kalispell MT 59901
406-249-2497



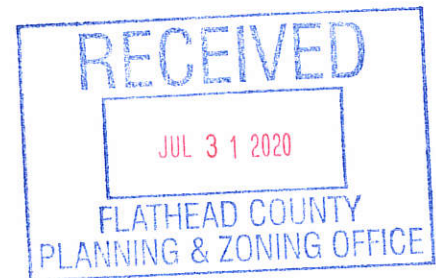
Mary Fisher

From: Mary Jo Gardner <mjgardner1234@gmail.com>
Sent: Friday, July 31, 2020 7:13 AM
To: Planning.Zoning
Subject: WV asphalt plant

We must protect this area from heavy and harmful industry. NO to the asphalt plant.

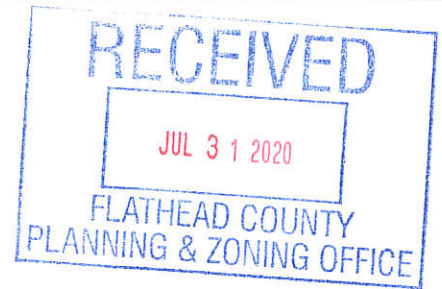
--

Mary Jo Gardner
1230 5th Avenue East
Kalispell MT 59901
406-249-2497



Mary Fisher

From: G & D Nielsen <nielsen@fastmail.com>
Sent: Friday, July 31, 2020 10:27 AM
To: Mary Fisher; Mark Mussman
Subject: West Valley proposed asphalt plant
Attachments: Dangers of Asphalt.docx



To Whom it May Concern:

We read the FLATHEAD COUNTY PLANNING AND ZONING OFFICE CONDITIONAL USE PERMIT REPORT (#FCU-20-04)SCHELLINGER CONSTRUCTION August 4, 2020 and it seems to gloss over the adverse air quality to the community at the very end of the report. We feel this is wholly inadequate. There are numerous reports that show the problems to health concerning asphalt plants.

The Centers for Disease Control (CDC), National Institute for Occupational Safety and Health (NIOSH), the Agency for Toxic Substances and Disease Registry (ATSDR), the American Conference of Governmental Industrial Hygienists (ACGIH), as well as many other highly credible governmental bodies and primary source peer reviewed journal articles describe potentially serious effects of inhalation toxicity from asphalt production. Some of the more serious human health effects cited by all of the aforementioned agencies are briefly summarized in the below fact sheet excerpt (from <http://health-faq.com/health-safety/environmental-dangers-of-asphalt/> & <https://www.cdc.gov/niosh/topics/asphalt/default.html>).

Environmental Dangers of Asphalt 01 Apr / admin / Health & Safety

Effects on Humans

- **One of the most common human exposures to asphalt is by inhalation. Throat and eye irritation, skin rash, fatigue, headache and cough are some of the acute, or immediate, effects of breathing in asphalt fumes.** Chronic exposure of inhaled asphalt fumes may lead to lung or stomach cancer. Prolonged exposure of fumes to the skin may cause a pigment change made more noticeable by exposure to sunlight.

Research conducted by the National Institute for Occupational Safety and Health shows that products containing asphalt are carcinogenic to laboratory animals. The organization therefore urges humans to limit their exposure to asphalt.

Asphalt Plant Pollution

- An EPA assessment on hot mix asphalt facilities reveals that these plants emit 770-2,000 hazardous air pollutants (HAPs) each year. HAPs, also called toxic air pollutants or air toxics, include PAHs. Asphalt processing and roofing facilities may be responsible for some air pollutants such as hexane, phenol and formaldehyde.

According to one of two studies conducted by the Blue Ridge Environmental Defense League, property value for residential homes near asphalt plants have reported losses of up to 56 percent.

Of those residents, 45 percent reported via survey that they experienced deteriorating health conditions after the asphalt plant opened. Health conditions reported include high blood pressure, sinus problems, shortness of breath and headaches.

We strongly oppose anything that will negatively impact our neighborhood and the asphalt plant is certain to do that at the benefit for a few and detriment for many.

Gerry and Diana Nielsen

JUL 31 2020

Mary Fisher

From: G & D Nielsen <nielsen@fastmail.com>
Sent: Friday, July 31, 2020 10:28 AM
To: Planning.Zoning
Subject: West Valley proposed asphalt plant



To Whom it May Concern:

We read the FLATHEAD COUNTY PLANNING AND ZONING OFFICE CONDITIONAL USE PERMIT REPORT (#FCU-20-04)SCHELLINGER CONSTRUCTION August 4, 2020 and it seems to gloss over the adverse air quality to the community at the very end of the report. We feel this is wholly inadequate. There are numerous reports that show the problems to health concerning asphalt plants.

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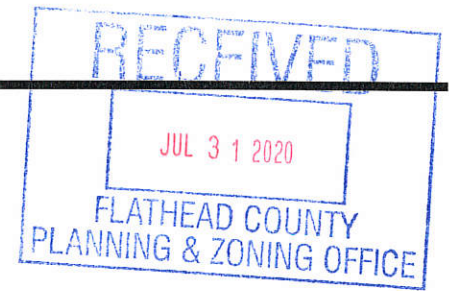
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We strongly oppose anything that will negatively impact our neighborhood and the asphalt plant is certain to do that for the benefit of a few at the detriment of many.

Gerry and Diana Nielsen

JUL 31 2020

Mary Fisher



From: JAMES WEBER <jwdisciple@msn.com>
Sent: Friday, July 31, 2020 10:46 AM
To: Planning.Zoning
Subject: opposition to batch plant in West Valley

Dear Sirs,

I gave Mark Mussman a copy of my disapproval letter, but - do not know if I should have filed something here instead.

I most definitely oppose FCU-20-04, the asphalt/concrete batch plant application ---- and also oppose Section 16 Family Limited Partnership to amend FCU-05-07 in removing the batch plant prohibition. There is no way that an industrial site as such should be allowed in any residential, water, or air territory - not to mention the West Valley - - - where it has already been determined to be harmful - by the Land Use Advisory Committee. Not only that, but - there is a Wildlife Viewing area/sanctuary - - - that backs up to the gravel pit now, and both man and animal alike would be greatly negatively affected.

BESIDES all that - it should not even be allowed that such a thing should even be considered..... with the Montana Supreme Court decision years ago - - - giving the decision over to the residents - for care in their OWN residential area. **THEY MANDATED a "NO" - - - on any kind of HEAVY industrial uses.**

I cannot believe that Mark Mussman - openly apologized for not even having read the report - at the first public meeting - at the fairgrounds. (I do hope that was recorded and can be reviewed.) He said "his staff had done all the work," and he himself was unaware of how the "neighborhood impact" had been left out. He did not even understand the traffic number increases, etc., etc. - involved in such an application, and that appalled me that someone who is supposed to be protecting our spaces and laws - would be so detached from the final approval role he was to maintain.

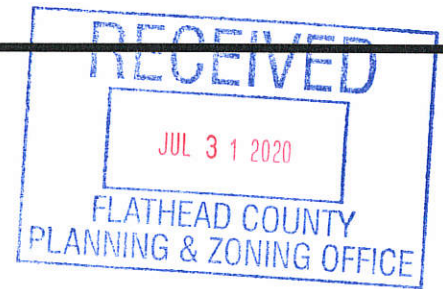
There are laws in place, and - I can only shudder to think of the TAXPAYERS having to recuperate **many legal consequences** of cancers, property value lawsuits, etc., etc. ---- that will be on their way ----- if anything like this is ever to take place. PLEASE THINK OF THE FUTURE - - - - not just in monetary terms, but - in the life, health, future, and PEACE OF MIND of the many people you are supposedly committed to providing direction for - and in maintaining Montana (especially Flathead County) - - - - as the LAST BEST PLACE --- planned out in all the best ways. PLEASE HAVE A BACKBONE AND ASSERTIVE, PRODUCTIVE PLANS IN PLACE THAT DEFINITELY DEMONSTRATE AND SHOW --- INDUSTRIAL, RESIDENTIAL, AGRICULTURAL, and COMMERCIAL BOUNDARIES ARE REAL; do NOT make the residents themselves have to fall into the ENFORCEMENT ROLE on any of these issues.

Thank you most sincerely for listening here - and see you on August 4th,
M. Suzanne Weber, Naturopath and Classical Homeopath
227 Rhodes Draw,
Kalispell, Montana 59901

Sent from [Outlook](#)

Mary Fisher

From: JAMES WEBER <jwdisciple@msn.com>
Sent: Friday, July 31, 2020 11:47 AM
To: Planning.Zoning
Subject: FCU-20-04



Dear Board of Adjustment,

I am writing to express my adamant opposition to FCU-20-04, which is intended to remove the prohibition of asphalt and concrete batch plants from FCU-05-07. The Board of Commissioners, on October 9th of 2008, "stripped the growth policy and any neighborhood plans" from any authority to regulate. As a result, the BOA is now the only mechanism left to prohibit misuse/abuse by developers and businesses that would take advantage of this flaw in the zoning regulations to completely ignore the will of the residents of a neighborhood and its established growth policy.

As you well know, asphalt and concrete batch plants have no place in a residential area. And yes, much of West Valley is zoned as agricultural. But, there is no way possible to construe batch plants as being integral to, or part of, an agricultural operation. You have already set a precedent in FCU-05-07 of upholding the growth policy and neighborhood plans of the West Valley residents. Thank you for that! Please do not reverse course by approving FCU-20-04.

As you also know, there are numerous valid reasons that have been, and will be, presented to the BOA to deny FCU-20-04. Additionally, the most recent CUP Report does not adequately address specific facts and details. In fact, it makes assumptions and suggests compliance or portrays things as fact that are not true. It glosses over lacks of facts or substantiation of information with the word "appears." The residents of West Valley will provide information, at the next meeting, that the BOA should have to make an informed decision in this matter.

Please give due consideration to the facts and the West Valley residents and deny FCU-20-04.

Thank you!
Jim Weber
227 Rhodes Draw

W. Kim and Janet Davis
200 Brookside Trail
Kalispell, MT 59901

Dear Flathead County Board of Adjustment and Flathead County Planning Office:

As residents of West Valley and active members of the West Valley Neighborhood Plan effort from start to finish, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow “asphalt and concrete operations”. This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The community used the gravel extraction description that was available at that time. There was no consideration given to the many other potential problems that an asphalt plant would bring to the area. The conditional use permit that was allowed was specific to strictly gravel extraction, which meant just that and nothing more. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. Given that the West Valley Neighborhood Plan was overwhelmingly approved by the community with definitions understood at that time, a change of this magnitude should require a vote by the residents of the community. The West Valley area has been defined as a residential area. The plan, on page 18, specifies “Industrial uses should not be permitted except those accessory to normal farm operations”. An asphalt plant and possible concrete plant are not normal farm operations. An asphalt plant is definitely an industrial site. The West Valley community and the West Valley Neighborhood Plan never had any thoughts of allowing an industrial site into the area.

We would ask that you not allow this change to the permit that was issued, which prohibited asphalt and concrete batch plant operations.

Thank you very much for your time and effort in this matter, and thank you for your service to the community.

Sincerely,

W. Kim Davis

Janet Davis



Mary Fisher

From: Kim Davis <wkimd123@centurytel.net>
Sent: Friday, July 31, 2020 1:35 PM
To: Mary Fisher
Subject: West Valley asphalt plant letter.
Attachments: Bd of Adj Gravel Pit.docx

JUL 31 2020

W. Kim and Janet Davis
200 Brookside Trail
Kalispell, MT 59901



Dear Flathead County Board of Adjustment and Flathead County Planning Office:

As residents of West Valley and active members of the West Valley Neighborhood Plan effort from start to finish, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow “asphalt and concrete operations”. This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The community used the gravel extraction description that was available at that time. There was no consideration given to the many other potential problems that an asphalt plant would bring to the area. The conditional use permit that was allowed was specific to strictly gravel extraction, which meant just that and nothing more. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. Given that the West Valley Neighborhood Plan was overwhelmingly approved by the community with definitions understood at that time, a change of this magnitude should require a vote by the residents of the community. The West Valley area has been defined as a residential area. The plan, on page 18, specifies “Industrial uses should not be permitted except those accessory to normal farm operations”. An asphalt plant and possible concrete plant are not normal farm operations. An asphalt plant is definitely an industrial site. The West Valley community and the West Valley Neighborhood Plan never had any thoughts of allowing an industrial site into the area.

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Thank you very much for your time and effort in this matter, and thank you for your service to the community.

Sincerely,

W. Kim Davis

Janet Davis



Mary Fisher

From: Kim Davis <wkimd123@centurytel.net>
Sent: Friday, July 31, 2020 1:36 PM
To: Planning.Zoning
Subject: West Valley asphalt letter
Attachments: Bd of Adj Gravel Pit.docx

JUL 31 2020

Mary Fisher

From: Michelle Flink <michelleflinkremax@gmail.com>
Sent: Friday, July 31, 2020 2:24 PM
To: Planning.Zoning
Subject: REVISED Planning Report #FCU 08-07

Good afternoon,

I am writing to express my opposition to FCU-20-04, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. I am listing a few of my major concerns.

Traffic, water/environmental constraints, property values, welfare of residents and children of west valley school and so much more.

Best Regards,

Michelle Flink, GRI

RE/MAX Whitefish
C 406-249-1924 | O 406-863-3400
Fax 406 863 3415
509 East 6th Street Whitefish, MT
www.remax-whitefish-mt.com



Mary Fisher

From: Michelle Flink <michelleflinkremax@gmail.com>
Sent: Friday, July 31, 2020 2:26 PM
To: Mary Fisher
Subject: REVISED Planning Report #FCU 08-07

Good afternoon,

I am writing to express my opposition to FCU-20-04, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. I am listing a few of my major concerns.

Traffic, water/environmental constraints, property values, welfare of residents and children of west valley school and so much more.

Best Regards,

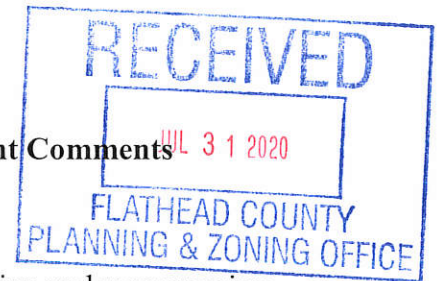
Michelle Flink, GRI

RE/MAX Whitefish
C 406-249-1924 | O 406-863-3400
Fax 406 863 3415
509 East 6th Street Whitefish, MT
www.remax-whitefish-mt.com



Tutvedt 2 Gravel Pit – CUP Modification - Asphalt Plant Comments

from Mike Beale



If there is one thing that gets me motivated, it is seeing political corruption and maneuvering being used in our nice little town in the nice little Flathead Valley.

After thousands of hours and thousands of dollars a group of private citizens working with Business and industry leaders and City and County government officials they finally put together the West Valley Neighborhood Plan, It was not easy then but is about impossible now, you just don't see this kind of cooperation between competing interests any more.

Much of that plan has since been incorporated into the Flathead County Zoning and within it is the term Gravel Extraction; it is listed as a Conditional Use, note it was not listed under Permitted Uses. There is a big difference between the 2 which is why we are all engaged; you the Board have every right and the authority to deny it. The reason the Flathead County Zoning did not bother to define gravel extraction was because the definition is obvious, according to Webster's dictionary it is: Gravel "loose rounded fragments of rock" and Extraction "the act or process of extracting something". Daa, how hard it that to define, but leave it to lawyers to convolute things to the point they can define it to mean whatever they want it to mean. And this brings me to a quick and relevant joke keeping in mind I've been a licensed Land Surveyor for 40 years: A lawyer, and engineer and a land surveyor are all in a planning meeting where the planning director wanted to understand the difference between their professions, so they were asked the age old question, what is the definition of 2 + 2. Well the engineer jumps up and says I know I know I had calculus in college, it is 4.0000. Then the director looks over at the really cool and logical dude the Land Surveyor who gives the obvious answer, it's 4 of course, so then the director looks over at the lawyer for an answer, the lawyer gets a sheepish grin on his face and kind of leans over and whispers to the director .. what do you want it to be? Unfortunately in the case of W. Valley and really for the entire Flathead Valley Zoning the lawyers answer was 4 + an asphalt plant.

So after thousands of hours and dollars creating the W. Valley Plan, along comes a state senator with his own self interest at heart, he uses his influence and fortune to drag a bunch of private land owners into a long expensive court battle to which nobody wins, so they settle. Then along comes a County Commissioner with his own gravel pit/asphalt plant self interest at heart, he sees a way to twist the intent of the W. Valley Zoning by changing the definition of Gravel Extraction to include other industries that really belong being defined under Extractive Industries. .. but since Extractive industries are not part of the West Valley Zoning he uses his influence to improperly change the definition of Gravel Extraction to include an asphalt plant. The Planning Dept. did a great job documenting why they recommended against adding an asphalt plant to the definition, but the County Commissioners approved it anyway ... swamp. Now because of political maneuvering by rich influential government officials we have in our agricultural and

residentially zoned area with lotted subdivisions next door and kids playing up against the fence. According to Mark Mussman there are 4 gravel pits and 2 asphalt plants already approved in W. Valley, how the heck many do we need in a residential area?

I am retired and live a couple miles from this pit so I do not have as much a dog in this fight as others, but when I see injustice like this in our little town it really pisses me off. Politicians taking advantage of their positions to get rich and screw over the little people, a mini version of the swamp that exists in DC. I have lived my life trying to do the right thing, when you make an agreement or a settlement especially in court you abide by it; they were lucky to even get the gravel pit approved. But nooo, leave it to the big business tyrants to break their agreements and screw over their neighbors so they can make even more \$, where does this kind of injustice end?

As I said in the beginning even with all the political maneuvering and their improper redefining of the term Gravel Extraction to backdoor their gravel pits into the W. Valley, it is still listed in the Flathead County Zoning as a Conditional Use, it is not a Permitted Use. Even with that there is no obligation on the part of you the Board Adjustments to approve it. I implore you to deny this amendment because of the reasons you are hearing from others, the fact that there are already 4 gravel pits and 2 asphalt plants approved in W. Valley, because of the rotten history of Political maneuvering and abuse by the gravel pit owners, their lack of complying with the terms of the original CUP, and because of the thousands of hours and tens of thousands of dollars private citizens have spent trying to defend what is right and should have never needed defending, it is just the right thing to do. But on the other hand if you decide to do the wrong thing and approve the damn thing, then at least put some conditions on it limiting the size of the operation.

JUL 31 2020

Mary Fisher

From: Mike <mike7@centurylink.net>
Sent: Friday, July 31, 2020 2:43 PM
To: Planning.Zoning
Cc: Mary Fisher
Subject: REVISED Planning Report #FCU 08-07 to the Board of Adjustment
Attachments: Tutvedt2GravelPitComments7-31-20.docx

Good afternoon:

Please forward my comments to the Board of Adjustments, thank you.

Mike Beale

JUL 31 2020

Mary Fisher

From: Linda Hubner <lahubner@centurylink.net>
Sent: Friday, July 31, 2020 3:22 PM
To: Planning.Zoning; Mary Fisher
Subject: Fwd: Concerns on Finding of Fact #3 and #12 for BOA



Dear Addressee's,

I am forwarding this note to ensure it is correctly recorded as input for the Board of Adjustment Vote on August 4. I sent it to Mr. Mussman on July 25.

To be clear, I am opposed to FCU-20-04, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. The proposal is clearly detrimental robust, healthy growth and property values in the West Valley as I outline in the attached email.

I believe it would be negligent for the BoA, representing the Flathead Commissioners and Flathead County voters, to vote yes on this proposal. It would definitely negligent without recent or updated water studies or traffic studies that considers the current population.

Sincerely,
Linda Hubner

Begin forwarded message:

From: Linda Hubner <lahubner@centurylink.net>
Subject: Concerns on Finding of Fact #3 and #12 for BOA
Date: July 25, 2020 at 2:41:42 PM MDT
To: mmussman@flathead.mt.gov

Dear Mr. Mussman,

I am writing to state my adamant opposition to the proposed batch concrete and asphalt plant as proposed by Schellinger/Tutvedt. The West Valley is a beautiful location in the Flathead Valley that is attracting people with sustained and smart development plan. It's attractive because it is a safe and healthy place to live. The proposed batch plant is a contradiction to this development. My opposition is based primarily on 2 of the findings of fact:

#3: Regarding Absence of Environmental Constraints specifically leakage of contaminants into the shallow ground water.

As your staff state in their report, the current gravel operation occurs 23 feet above the shallow aquifer. Gravel is exceedingly porous and permeable to any liquid flow. This is a gravel plant - obviously the entire operation is sitting on gravel. I understand there will be some mitigating measures put in place, e.g. chemical liners etc. Chemical liners can break and leak - especially

over the 40 year plant lifetime. How quickly will contaminants penetrate a 23 foot gravel layer? Do you know? Water would flow through it in hours. If there is a fire - how quickly will the fire-fighting foam dissipate through the gravel? Do you know? I suggest it will happen quickly, and will likely occur before anyone is aware. How will any subtle potential leak be monitored?

#12: Regarding only ~2% increase in traffic on Church Drive and Farm-to-Market.

If the reference to ~2% increase on Church Drive and Farm-To-Market is correct, the report implies that this is an insignificant increase in traffic. I would agree if this was an apple-to-apple comparison of heavy truck traffic. Instead, your staff report appears to be comparing the increase in heavy truck traffic to the overall traffic which includes a significant majority of personal cars and pickup trucks. What is the increase compared to the already heavy truck traffic on both of these roads? Absent the detailed assessment from Schellinger and your planning department, my guess is that it will be in the an increase of approximately 25- 30% in heavy truck traffic during the peak/compressed operating times. That is an extremely significant increase.

Additionally, you calculate this percentage using 130 trips but then Schellinger says it could be 150 trips. That's an increase of 15% in heavy truck traffic just within the proposal. Shouldn't your staff look at the maximum use of this plant and impact on the roads? Especially, since approval would open the door to maximum use of a large-scale concrete and asphalt batch plant.

Your staff report states that they are using an out-of-date study from 2008. It should be updated before proceeding. Combined with the comments above, your staff might then be able to correctly assess the proposed maximum increase in heavy truck traffic on these two rural roads.

I drive Farm-to-Market and Church Drive almost every day. It is already extremely dangerous to share the roads with the current number of heavy trucks hauling heavy loads often pulling an additional bed. It is unsafe - the truck drivers are hesitant to stop fully at stop signs as it impedes their acceleration and gas consumption. I've observed that they often coast into the roads - many times I've had to brake suddenly. Church Drive is a narrow road with no shoulders - it is very unforgiving. Farm-to-Market is not much better. The proposed significant increase in heavy truck traffic on these narrow roads is a recipe for disaster.

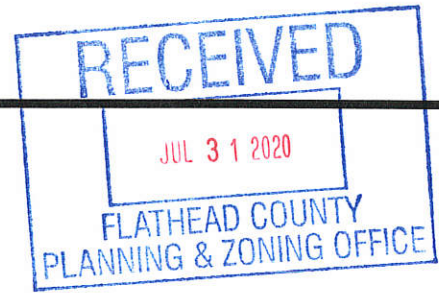
I respectfully request that the BOA is made aware of these possible inconsistencies and gaps in the report, and the negative implication for the health and safety of the local community.

Thank you for your time,

Linda Hubner

Mary Fisher

From: Patricia Jaquith <pjaquith07@gmail.com>
Sent: Friday, July 31, 2020 3:34 PM
To: Planning.Zoning; Mary Fisher
Subject: FCU--20-04



in re: Revised Planning Report FCU-08-07, a request by Schellinger Construction to remove the prohibition of concrete and/or batch plants.

To whom it may concern:

I am in **opposition** to the proposed additional uses at the Gravel Pit on Farm to Market.

West Valley, and particularly the area of the gravel pit in question, are residential/agricultural areas. To wit., the area along Farm-to-Market Road and Three Mile Drive is currently under intense expansion west of the MT 93 bypass corridor. The West Valley has yet to fully appreciate the impact of that permitted expansion.

The entire local highway system would be negatively impacted by the large, heavy vehicles added to service any addition to the gravel pit. The one mile section of West Valley Drive between 3 Mile Drive and MT. Hwy 2 includes a hill, several sharp curves and another gravel pit. Many vehicles, heavy trucks included, accelerate as they approach or descend that hill. Already a problematic area, the intersection of West Valley Drive with MT. Hwy 2 could become extremely dangerous with the addition of more industrial vehicles, especially those laden with volatile materials.

The proximity of the West Valley School is a larger factor than has been considered. Schools generate increased traffic by buses, parents, employees and service vehicles. Adding increased heavy truck trips to an already dense use over the entire day is an unsafe mix in this residential district. The school is a preceding use. The increasing residential construction almost certainly predicts school growth.

Please **deny** FCU-20-04.

With appreciation of your work and oversight,

Patricia Jaquith

Mary Fisher

From: TerryRhonda Longenecker <trlongneck@gmail.com>
Sent: Friday, July 31, 2020 4:32 PM
To: Mary Fisher
Subject: Concerning concrete/ashalt plant



To Board of Adjustment Members,

If the proposal of one 160 acre landowner does not match the shared use goals of the 9000 acre West Valley neighborhood, it should be denied.

24 years ago the county commissioners adopted the West Valley neighborhood plan. Today everyone can see plainly the fruit of their labor and see a valley of forest and farmland with homesteads nestled throughout. Their vision "to maintain the rural and scenic qualities of West Valley" is a current reality enjoyed by anyone who drives north from West Valley School and tops the hill to gaze upon the heart of the West Valley - a valley spread out beneath spacious skies rimmed by the mountains and open space of a vast coherent and unified vision for all.

This asphalt and concrete plant is proposed in this very place and would most certainly have a **negative** impact upon the future of the valley for years to come.

It would be a betrayal of trust if this proposal was accepted.

Please oppose this request alongside all who are committed to a vision "to maintain the rural and scenic qualities of West Valley," as it stands written in the West Valley neighborhood plan.

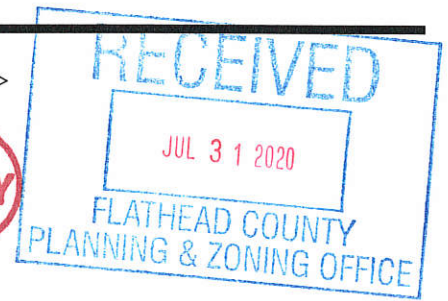
Please deny FCU-20-04

Thank you,

Terry and Rhonda Longenecker
3230 Farm to Market Road

Mary Fisher

From: TerryRhonda Longenecker <trlongneck@gmail.com>
Sent: Friday, July 31, 2020 4:34 PM
To: Planning.Zoning
Subject: Concerning concrete/ashalt batch plant



To Board of Adjustment Members,

If the proposal of one 160 acre landowner does not match the shared use goals of the 9000 acre West Valley neighborhood, it should be denied.

24 years ago the county commissioners adopted the West Valley neighborhood plan. Today everyone can see plainly the fruit of their labor and see a valley of forest and farmland with homesteads nestled throughout. Their vision "to maintain the rural and scenic qualities of West Valley" is a current reality enjoyed by anyone who drives north from West Valley School and tops the hill to gaze upon the heart of the West Valley - a valley spread out beneath spacious skies rimmed by the mountains and open space of a vast coherent and unified vision for all.

This asphalt and concrete plant is proposed in this very place and would most certainly have a **negative** impact upon the future of the valley for years to come.

It would be a betrayal of trust if this proposal was accepted.

Please oppose this request alongside all who are committed to a vision "to maintain the rural and scenic qualities of West Valley," as it stands written in the West Valley neighborhood plan.

Please deny FCU-20-04

Thank you,

Terry and Rhonda Longenecker
3230 Farm to Market Road

Mark Mussman

From: DeDee <dedeebarton@gmail.com>
Sent: Thursday, July 30, 2020 4:05 PM
To: Mark Mussman
Subject: Schillinger/Tutvedt Proposed Asphalt and Batch Plant

7/30/2020

To: Flathead County Planning Board:

From: Carolyn and Lanny Barton
42 Stonecrest Drive
Kalispell, MT. 59901



Our concerns regarding the proposed Asphalt and Batch Plant planned for the West Valley Area are pretty much the same as the rest of the residents of the area.

We live off of West Valley Drive we feel this road would also be greatly affected by this plant.

We have owned and lived on this property for 30 year. We already see large truck traffic increasing to what it was prior to the opening of the bypass.

Our concerns are listed below and we feel they do not need any further explanation as it is apparent that the majority of the West Valley residents feel the same.

1. Excess increase in truck traffic
2. Air and water pollution
3. Increased Noise levels
4. Hazard to school children as well as a distraction during school hours
5. Property Values decreasing
6. Fire danger

Thank You for your time and consideration. I'm sure if this plant wanted to move into your neighborhood you would all feel the same way.

Sincerely,
Carolyn and Lanny Barton

Sent from Mail for Windows 10

Erik Mack

From: Mary Fisher
Sent: Thursday, July 30, 2020 3:17 PM
To: Erik Mack
Subject: FW: Contact Message

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Thursday, July 30, 2020 2:57 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name: Charlene Iannucci

Email: ciannucci1963@gmail.com

Subject: FCU-20-04 BOA

Message: July 30, 2020 Dear Board of Adjustment Members, I am writing to express my opposition to FCU-20-04, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. This gravel pit lies within the West Valley Zoning District. Allowing gravel and/or concrete batch plants in West Valley would go against one of the underlying goals of the West Valley Neighborhood Plan, adopted in 1997. Per the zoning regulations of Flathead County: 1.04.020 The growth policy and neighborhood plans are not regulatory and do not confer any authority to regulate. The growth policy and neighborhood plans are intended to provide direction and guidance when consideration is given to adopting, amending, and interpreting zoning regulations. SECTION 3.42 WV WEST VALLEY 3.42.010 Definition: A district to promote orderly growth and development in the West Valley area consistent with the community vision statements as expressed by the text and map exhibits of the West Valley Neighborhood Plan, County Resolution #1226-A The assessment by the MT Supreme Court recognized that twenty pages of the WV plan were related to residential concerns. West Valley is a residential neighborhood. Per the West Valley Neighborhood Plan, industrial uses should not be permitted except those accessory to normal farm operations. Per the zoning regulations of Flathead County, Light Industrial Zones are: 3.30.010 Definition. A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of nonindustrial uses within the district be prevented other than those listed herein. If light industrial uses typically "do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines", then extractive industries must be categorized as Heavy Industrial. Heavy industrial uses have no place in a residential area. Not now, not ever. The Board of Adjustment has upheld West Valley's Plan with regards to industrial uses for twenty-three years. Thank you for that protection and respect for the WV Neighborhood Plan. Please deny FCU-20-04. Sincerely, Charlene Iannucci 597 Clark Homestead Ln. Kalispell, MT 59901

Erik Mack

From: Mary Fisher
Sent: Thursday, July 30, 2020 3:29 PM
To: Erik Mack
Subject: FW: Opposition to FCU-20-04

From: Tiffany Moloney <tmoloney@krmc.org>
Sent: Thursday, July 30, 2020 3:28 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: gandruetr@yahoo.com
Subject: Opposition to FCU-20-04

Dear Board of Adjustment,

I am writing to you today to express my opposition of FCU-20-04. This has been requested by Schellinger Construction and Section 16 Family Limited partnership. They are requesting to amend FCU-05-07 to remove the prohibition of batch plants.

The gravel pit currently lies in West Valley, a wonderful residential community with lots of families building their futures for themselves and their children. Allowing a concrete/asphalt batch plants in this area of Flathead County would ruin the culture and serenity of West Valley.

I have many concerns regarding this request and I am in opposition of the request by the parties listed above. I feel that West Valley should not be used in an industrial way and industrial use should not be permitted except for the rural farm operations. I have a high concern with its closeness to West Valley School which houses K-8 grades and a large amount of children. The environmental factors that could affect the children is huge. I feel the traffic and the size of industrial trucks will impact the roads as well as the community and the peacefulness of West Valley. It is a desirable location for a lot of individuals and has a huge opportunity to grow even more, without disrupting the wildlife and residential feel. West Valley school will need to expand in the very near future with the increasing population within their district. Perhaps we should be looking more toward the future of our children and the next generation rather than destroying what we have.

Again, I am in opposition of the request.

Thank you,
Tiffany Moloney
West Valley resident & property owner on Canola Road

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Erik Mack

From: Mary Fisher
Sent: Thursday, July 30, 2020 3:17 PM
To: Erik Mack
Subject: FW: Board of Adjustment

From: Larry Tahler <larry@tahler.com>
Sent: Thursday, July 30, 2020 3:12 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Board of Adjustment

July 30, 2020

Dear Board of Adjustment Members,

I want to express my opposition to FCU-20-04, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. This gravel pit lies within the West Valley Zoning District. Allowing gravel and/or concrete batch plants in West Valley would go against one of the underlying goals of the West Valley Neighborhood Plan, adopted in 1997.

- Per the zoning regulations of Flathead County: **1.04.020** *The growth policy and neighborhood plans are not regulatory and do not confer any authority to regulate. The growth policy and neighborhood plans are intended to provide direction and guidance when consideration is given to adopting, amending, and interpreting zoning regulations.*
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- The assessment by the MT Supreme Court recognized that twenty pages of the WV plan were related to **residential** concerns. West Valley is a residential neighborhood.
- Per the West Valley Neighborhood Plan, **industrial uses should not be permitted except those accessory to normal farm operations.**
- Per the zoning regulations of Flathead County, **Light Industrial Zones** are: **3.30.010** Definition. *A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond*

the lot lines. It is also intended that the encroachment of nonindustrial uses within the district be prevented other than those listed herein.

- If light industrial uses typically ***“do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines”***, then extractive industries must be categorized as **Heavy Industrial**.
- Heavy industrial uses have no place in a residential area. **Not now, not ever.**

The Board of Adjustment has upheld West Valley's Plan with regards to industrial uses for twenty-three years. Thank you for that protection and respect for the WV Neighborhood Plan.

Please deny FCU-20-04.

Sincerely,
Lawrence Tahler
2860 Farm to Market Road
20 year resident at this address

Erik Mack

From: Mary Fisher
Sent: Thursday, July 30, 2020 3:17 PM
To: Erik Mack
Subject: FW: BOA FCU-20-04

From: Charlene Iannucci <ciannucci1963@gmail.com>
Sent: Thursday, July 30, 2020 2:59 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: BOA FCU-20-04

July 30, 2020

Dear Board of Adjustment Members,

I am writing to express my opposition to FCU-20-04, a request by Schellinger Construction and Section 16 Family Limited Partnership to amend FCU-05-07 to remove the prohibition of batch plants. This gravel pit lies within the West Valley Zoning District. Allowing gravel and/or concrete batch plants in West Valley would go against one of the underlying goals of the West Valley Neighborhood Plan, adopted in 1997.

- Per the zoning regulations of Flathead County: **1.04.020** *The growth policy and neighborhood plans are not regulatory and do not confer any authority to regulate. **The growth policy and neighborhood plans are intended to provide direction and guidance when consideration is given to adopting, amending, and interpreting zoning regulations.***
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- If light industrial uses typically **“do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines”**, then extractive industries must be categorized as **Heavy Industrial**.
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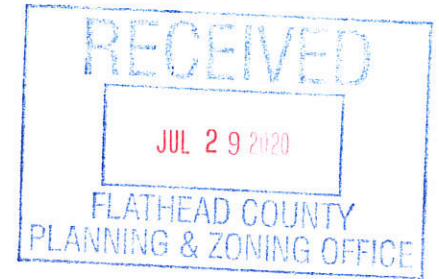
The Board of Adjustment has upheld West Valley's Plan with regards to industrial uses for twenty-three years. Thank you for that protection and respect for the WV Neighborhood Plan.

Please deny FCU-20-04.

Sincerely,
Charlene Iannucci
597 Clark Homestead Ln.
Kalispell, MT 59901

Mark Mussman

From: TerryRhonda Longenecker <trlongneck@gmail.com>
Sent: Tuesday, July 28, 2020 9:55 PM
To: Mark Mussman
Subject: Concerning proposed asphalt/concrete batch plant



To Mark Mussman, Planning Director,

If the proposal of one 160 acre landowner does not match the shared use goals of the 9000 acre West Valley neighborhood, it should be denied.

24 years ago the county commissioners adopted the West Valley neighborhood plan. Today everyone can see plainly the fruit of their labor and see a valley of forest and farmland with homesteads nestled throughout. Their vision "to maintain the rural and scenic qualities of West Valley" is a current reality enjoyed by anyone who drives north from West Valley School and tops the hill to gaze upon the heart of the West Valley - a valley spread out beneath spacious skies rimmed by the mountains and open space of a vast coherent and unified vision for all.

This asphalt and concrete plant is proposed in this very place and would most certainly negatively impact the future of the valley for years to come.

I stand opposed to this request alongside all who are committed to a vision "to maintain the rural and scenic qualities of West Valley".

Thank you,

Terry Longenecker
3230 Farm to Market Road

Mark Mussman

From: Mary Fisher
Sent: Tuesday, July 28, 2020 7:36 AM
To: Mark Mussman
Subject: FW: Planning and Zoning Theory



From: Nick Thiel <thielni@gmail.com>
Sent: Monday, July 27, 2020 9:16 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Planning and Zoning Theory

A note to whomever believes in the value of planning and zoning,

I have been watching the discussions about the asphalt batch plant in West Valley. I went to the meeting at the fair grounds to hear what this was all about. The more I learn and consider the angles of the Tutvedt and Schellinger interest and the west valley interests it makes me wonder what the purpose of the zoning office is. I really don't know the answer to this question. My best guess is that it is to keep development thoughtful and to help ensure fair and legal use of property. I am all ears for a clarification on that definition.

But if that is close to the objective then I don't understand how two people's greedy use of their property which endangers 100's of surrounding properties due first and foremost to water purity and secondly air quality and thirdly noise pollution for those living close and fourthly for traffic fatalities and finally because west valley never has been and probably never should be an industrial area. I am totally flabbergasted that this discussion is continuing on. It seems like an open and shut case. This is no different than two greedy people opening an artillery range on an acre of land claiming that any projectile overflow or mishap is not of significant concern. I presume the planning office would not approve a firing range where bullets are likely to kill neighbors. Though, I don't know for certain if that is a good presumption or not as I look on.

West Valley has had decades of ordinance to preserve the quality of life, the guarantee of clean drinkable water of a rural shared farm and residential corner of the valley. At least this was true until Gary Krueger's selfish ambitions modified the decades old rules which laid groundwork for the next two greedy and endangering neighbor's that came along to continue the destruction that Kruger started. The public voted Kruger out of office because he was so destructive. So maybe there are three greedy people creating this uproar and a couple hundred people wanting to raise their families or live out their lives in peace and quietly as it has been for decades.

I'm interested in feedback by phone or in writing and I hope it includes some compassion for humanity. I apologize for perhaps an inflammatory tone but I don't know how else to express my disappointment and anger at this injustice and greed.

Nick Thiel
112 East Bluegrass
Kalispell, MT 59901
775.450.6890
thielni@gmail.com

Mark Mussman

From: John Rodwick <johnrodwick@gmail.com>
Sent: Monday, July 27, 2020 4:20 PM
To: Mark Mussman
Subject: Asphalt plant



Dear Mr Mussman

I just don't understand why this is even being considered. From what I understand the plant would not even meet the requirements for zoning in that area but maybe I'm wrong about that. What I do know is that that is a residential area, asphalt plants stink and create toxic waste that is going to have nowhere to go but into the aquifer. It's wonderful farmland too. I feel like the planning commission hardly ever listens to public input and only wants to do what the developers ask. Years ago my wife and I went before the planning commission in opposition to the subdivision of town homes that was being proposed on the hillside above Village greens where they were going to put townhomes and eventually did over the objections of the local citizens. They put them too close to the edge. Our concern at the time was that it was going to result in slippage on the hillside. Well, no surprise several years later that hillside slipped. The comment from one of the developers supporters at the hearing was that "any problem that arises can always be repaired by the injection of asphalt into the ground."

Maybe it was Concrete I don't remember but anyhow, the hillside slid, hypothetical injections didn't work and a tremendous cost was incurred by the county to shore up that hillside. I know it's not the same thing but it just doesn't make any sense why we are messing up our environment when we don't have to. Thank you for listening. Please deny the permit for this operation. The people of west valley do not want it.

John Rodwick Lakeside Montana

Mark Mussman

From: Janine Rubinfier <janine@j9ranch.com>
Sent: Monday, July 27, 2020 6:27 PM
To: Mark Mussman
Subject: !!! NO LOCAL ASPHALT PLANT!!!!



The REVISED Planning Report does **NOT** sufficiently evaluate **NEIGHBORHOOD IMPACT** and consider the **HIGHLY RESIDENTIAL nature of the proposed area, and risk to residents'** **water supplies.**

The plant's operation, if a fire were to occur, would irreparably damage the shallow water aquifer upon which it would sit.

To: Flathead Planning and Zoning

July 23, 2020

I oppose the request for a condition modification to allow the operation of asphalt and concrete batch plants in conjunction with the existing gravel operation on Farm to Market Road because there is potential for the proposed batch plants to adversely impact the immediate neighborhood as stated in the staff report FCU-20-04 regarding the conditional use permit.

The property is zoned 'WV West Valley.' West Valley is defined as, "A district to promote orderly growth and development in the West Valley area consistent with the community vision statements as expressed by the text and map exhibits of the West Valley Neighborhood Plan, County Resolution #1226-A."

As stated on page 24 of the West Valley neighborhood Plan, commercial and industrial policies allow for a neighborhood convenience store, opportunities for home-based businesses, and legally existing commercial and industrial uses. The gravel pit is an existing commercial and industrial use but an asphalt plant is not. Additionally, asphalt plants are not consistent with West Valley Land Use Goals as stated on page 23 of the West Valley Neighborhood Plan. I understand that this policy is not regulatory, but I urge you to uphold the original goals and policies of the neighborhood plan.

Sincerely,

Mary Reed Kuennen

Mary Reed Kuennen

7660 Farm to Market Rd.

Whitefish, MT 59937



Mark Mussman

From: stephen Haas <powdermt@hotmail.com>
Sent: Sunday, July 26, 2020 9:45 AM
To: Mark Mussman
Subject: Opposition to West Valley Asphalt Plant



Mr. Mussman,

With all due respect, your report is a joke.

There was no traffic study conducted, and your office simply accepted Schellinger's traffic estimates without any professional conducting any study. You don't count as a professional.

Property values? Straight down the shitter, all so that Al Schellinger can get an even darker tan in March. Tens of millions of dollars down the drain in property values so that Schellinger can save a few dollars while breaking the law? Awesome leadership.

As for West Valley fire department's response, they make no comment on or have any idea of the size of a potential fire. Mr. Sappington's response clearly shows that he has no idea what the potential size is because he makes no mention of how much they need (We maintain a supply of Class B foam if the need becomes necessary", how could he when Schellinger has NEVER ONCE STATED THE SIZE OF THE ACTUAL PLANT!!!!

It is painfully clear that this project has been rubber stamped by your office, and even more obvious just how bad you are at your job Mr. Mussman. For the sake of the entire valley please quit your job and just go work as a lobbyist for the extraction industry already, it is clearly your life goal.

Sincerely,

West Valley Resident that doesn't want the Republican Thugs of Flathead County to know my name

P.S. Is anyone that doesn't work for Schellinger (or is being bribed by them) actually support this?

Mark Mussman

From: Linda Hubner <lahubner@centurylink.net>
Sent: Saturday, July 25, 2020 2:42 PM
To: Mark Mussman
Subject: Concerns on Finding of Fact #3 and #12 for BOA



Dear Mr. Mussman,

I am writing to state my adamant opposition to the proposed batch concrete and asphalt plant as proposed by Schellinger/Tutvedt. The West Valley is a beautiful location in the Flathead Valley that is attracting people with sustained and smart development plan. It's attractive because it is a safe and healthy place to live. The proposed batch plant is a contradiction to this development. My opposition is based primarily on 2 of the findings of fact:

#3: Regarding Absence of Environmental Constraints specifically leakage of contaminants into the shallow ground water.

As your staff state in their report, the current **gravel operation occurs 23 feet** above the shallow aquifer. Gravel is exceedingly porous and permeable to any liquid flow. This is a gravel plant - obviously the entire operation is sitting on gravel. I understand there will be some mitigating measures put in place, e.g. chemical liners etc. Chemical liners can break and leak - especially over the 40 year plant lifetime. How quickly will contaminants penetrate a 23 foot gravel layer? Do you know? Water would flow through it in hours. If there is a fire - how quickly will the fire-fighting foam dissipate through the gravel? Do you know? I suggest it will happen quickly, and will likely occur before anyone is aware. How will any subtle potential leak be monitored?

#12: Regarding only ~2% increase in traffic on Church Drive and Farm-to-Market.

If the reference to ~2% increase on Church Drive and Farm-To-Market is correct, the report implies that this is an insignificant increase in traffic. I would agree if this was an apple-to-apple comparison of heavy truck traffic. Instead, your staff report appears to be comparing the increase in heavy truck traffic to the overall traffic which includes a significant majority of personal cars and pickup trucks. What is the increase compared to the already heavy truck traffic on both of these roads? Absent the detailed assessment from Schellinger and your planning department, my guess is that it will be in the an increase of approximately 25- 30% in heavy truck traffic during the peak/compressed operating times. That is an extremely significant increase.

Additionally, you calculate this percentage using 130 trips but then Schellinger says it could be 150 trips. That's an increase of 15% in heavy truck traffic just within the proposal. Shouldn't your staff look at the maximum use of this plant and impact on the roads? Especially, since approval would open the door to maximum use of a large-scale concrete and asphalt batch plant.

Your staff report states that they are using an out-of-date study from 2008. It should be updated before proceeding. Combined with the comments above, your staff might then be able to correctly assess the proposed maximum increase in heavy truck traffic on these two rural roads.

I drive Farm-to-Market and Church Drive almost every day. It is already extremely dangerous to share the roads with the current number of heavy trucks hauling heavy loads often pulling an additional bed. It is unsafe - the truck drivers are hesitant to stop fully at stop signs as it impedes their acceleration and gas

consumption. I've observed that they often coast into the roads - many times I've had to brake suddenly. Church Drive is a narrow road with **no shoulders** - it is very unforgiving. Farm-to-Market is not much better. The proposed significant increase in heavy truck traffic on these narrow roads is a recipe for disaster.

I respectfully request that the BOA is made aware of these possible inconsistencies and gaps in the report, and the negative implication for the health and safety of the local community.

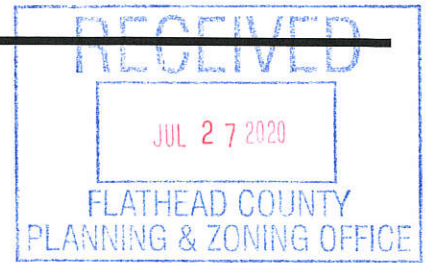
Thank you for your time,

Linda Hubner

JUL 27 2020

Mark Mussman

From: Hank & Beth oyler <robethoyler@gmail.com>
Sent: Friday, July 24, 2020 11:11 PM
To: Mark Mussman
Subject: Batch plant on farm to market

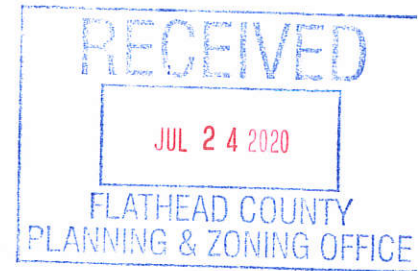


I wanted to let whoever it might concern that we live approx two miles from the gravel pit off farm to market and drive it to work and back 5 days a week. The implementation of an asphalt plant at that site would have a huge impact on my travel, non to mention the added risk. Now there are many other reasons that have already been mentioned of why This site is not a good choice, but the one that stands out to me is the impact on the neighborhood, people move to the country to get away from things like Batch Plants. To be honest it would have been a big factor on whether to build out here or not had it already been there. I'm sure that there are other sites that would suffice, that were not so close to already established neighborhoods. Thank you for taking the time to read my concerns ..

Robert Oyler
263 Sunday Ln
Kalispell, Mt. 59901

Mark Mussman

From: Richard R. Dillon <dillonacctg@centurytel.net>
Sent: Friday, July 24, 2020 9:30 AM
To: Mark Mussman
Subject: Asphalt Batch Plant crisis
Attachments: West Valley bulletin.pdf



7/24/2020

Mr. Mussman:

We are responding to the latest bulletin issued by the West Valley Neighbors Association which lists the impacts of an asphalt plant operating in the West Valley. (see pdf attachment).

Having attended the last meeting July, 2020, we are shocked to learn of an even greater effort to "ramrod" this proposal thru to the residents of West Valley.

As a retired chemist, I cringe at the idea of having to breathe fumes (known as polynuclear aromatics) resulting from asphalt plant operations. Years ago I worked as a research chemist in North Dakota dealing with the liquefaction of lignite coal. This process produces toxic substances similar to that of coal liquefaction that have very adverse effects on one's health.

Please do not allow this asphalt process to be legal in the West Valley.

Obviously there other serious issues besides the one cited above that could seriously impact the quality of life in the West Valley.
(please refer to the attached list).

To be sure, we will attend the August 4, 2020 meeting the fairgrounds.

We can't believe that the Board of Adjustment (which is a volunteer organization) can have such terrible power over the rights of citizens.

Very sincerely,

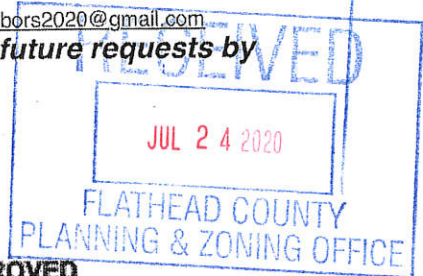
Richard R. and Beverly A. Dillon
83 Wendt Way
Kalispell, MT 59901-6911

755-2449

From: West Valley westvalleyneighbors2020@gmail.com
Subject: Please pass along to friends and neighbors
Date: July 23, 2020 at 1:10 PM
To: West Valley westvalleyneighbors2020@gmail.com
Bcc: BEVDILL@centurytel.net

WV

Here are some reasons to send your comments to the planning office. Our email is westvalleyneighbors2020@gmail.com
If this batch plant is approved, it will be nearly impossible to limit future requests by Schellinger/Tutvedt.



THESE COULD BE YOUR LOSSES IF WV ASPHALT PLANT APPROVED

SAFETY

The proposed asphalt plant will be a heavy industrial activity in close proximity to many residential areas, Stillwater Church, and within 2 miles of West Valley School. Increased truck traffic could be as many as 500 or more trucks per day on these roads.

WATER

A quarry operation has the potential to pollute the Lost Creek Fan shallow aquifer and contaminate neighboring wells. IF A FIRE WERE TO OCCUR, toxic PFAs in the foam needed to extinguish it would **IRREVERSIBLY** damage the aquifer.

HEALTH

Asphalt plants are known to produce toxic air pollutants that may cause cancer, respiratory problems and skin irritation. Silica dust emissions could increase the risk of respiratory illness and autoimmune diseases.

NOISE/ODOR

Drilling, rock crushing, back-up warning beepers on trucks, and tailgates banging. Unpleasant odor emitting from: the asphalt plant, asphalt being loaded into trucks, asphalt being transported, and diesel fumes from trucks — 12 HOURS PER DAY, including SATURDAY 7am — 2pm

TRAFFIC

Increased truck traffic on Farm to Market and Church Drives (estimated as high as 500) with no road improvements or modifications to the roads. Consider the road's condition after such loads.

PROPERTY VALUES

The quarry operation could CONTINUE ON AS A 25+ YEARS. The existing operation is over 10 years. IF THIS PERMIT IS APPROVED, IT OPENS THE DOOR FOR MORE SUCH PLANTS. The above will negatively impact the value of properties all around its perimeter and the West Valley as a whole. A recent letter by the applicant attempted to downplay the negative effects, HOWEVER A RECENT HOME SALE in the area was declined by potential buyer because of the possibility of asphalt approval.

Read the REVISED REPORT (dated Aug 4) FCU -20-04, date of VOTE) at:
https://flathead.mt.gov/planning_zoning/documents/FCU-20-04StaffReport_001.pdf

And give opinions on the Report's "FINDINGS OF FACT" especially # 3, 9,12,13,14
The recommendations of the WV Land Use Advisory Committee research are in Italics.

PLEASE PLAN TO ATTEND THE AUG 4 VOTE, 6pm at the Fairgrounds EXPO Bldg
CHAIRS WILL BE SPACED, SOCIAL DISTANCING OBSERVED

Even if you have emailed previously, it is important that you email your opinions to Planning Director, Mark Mussman at:

mmussman@flathead.mt.gov

Mark Mussman

From: Jan Fiaschetti <jfiaschetti@krmc.org>
Sent: Thursday, July 23, 2020 1:26 PM
To: Mark Mussman
Subject: FW: Psychological Impact of proposed asphalt plant.



Mr. Mussman, Sending you my in-put on the proposed asphalt plant. It completely disregards the integrity and well-being of the residents who, in good faith, committed to establishing their homes in an agricultural area. It would be far less disruptive (albeit an inconvenience), for the proponents of the plant to establish themselves in an area that would have a less direct impact on human lives then what they are currently setting out to do.

From: West Valley [mailto:westvalleyneighbors2020@gmail.com]
Sent: Tuesday, July 21, 2020 3:41 PM
To: Jan Fiaschetti
Subject: Re: Psychological Impact of proposed asphalt plant.

Great insight! I have been a part of this fight since 2005. This intermittent disruption and chaos is so taxing. Please go with this!

On Tue, Jul 21, 2020 at 3:12 PM Jan Fiaschetti <jfiaschetti@krmc.org> wrote:

My only contribution could be from the perspective of a therapist(of close to 40 years' worth of experience).People move to the West Valley, in part, because it offers respite from the ever-expanding highway 93 corridor of box stores and traffic congestion. Most of the folks I encounter are already feeling the pressure of the Covid pandemic, which, for those of us who choose to take it seriously, adds a significant overlay of uncertainty and anxiety about the future. The proposed plant does much the same thing. The research, to date, supports the adverse, far-reaching consequences of similar plants being built in a residential/agricultural area. I can see what science-based evidence there is to support the psychological impact this decision has had on individual who live nearby. My educated guess would be an exacerbation of anxiety-related disorders , as well as an increased sense of helplessness/loss of safety in one's environment.

CONFIDENTIALITY NOTICE:

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Mark Mussman

From: Angela Phillips
Sent: Friday, July 17, 2020 12:15 PM
To: Mark Mussman
Subject: FW: West Valley asphalt proposal



From: Brett Tallman <bctallman@centurytel.net>
Sent: Friday, July 17, 2020 12:02 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Fwd: West Valley asphalt proposal

Dear Mark,

I am resending you the information about the toxins produced by asphalt batch plants as put out by The Blue Ridge Environmental Defense League. I live just down wind from the proposed project and spoke briefly at the last meeting.

Thanks again for your work and consideration of all the concerns.

Brett Tallman

788 Lone Coyote Trail, Kalispell

----- Forwarded Message -----

Subject: West Valley asphalt proposal
Date: Tue, 2 Jun 2020 16:52:28 -0600
From: Brett Tallman <bctallman@centurytel.net>
To: Flathead County Board of Adjustments <planning.zoning@flathead.mt.gov>

Dear Planning board,

As a home owner who lives directly down wind from the proposed asphalt batching site (within one mile), I highly object to said proposal. It only takes a few seconds of research provided by the EPA to show this is not a healthy option to live near or to raise children. Here's what the EPA research shows:

These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates.[EPA]

Further studies by the Blue Ridge Environmental Defense League shows the following:

Health Impacts & Loss of Property Value. The Blue Ridge Environmental Defense League (BREDL), a regional environmental organization, has done two studies on the adverse impacts on property values and health for residents living near asphalt plants. A property value study documented losses of up to 56% because of the presence of a nearby asphalt plant. In another study, nearly half of the residents reported negative impacts on their health from a new asphalt plant. The door-to-door health survey found 45% of residents living within a half mile of the plant reported a deterioration

of their health, which began after the plant opened. The most frequent health problems cited were high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%). [BREDL]

Our part of the valley is already polluted enough by dubious farming practices going back decades and current spraying of herbicides and pesticides, including ground water saturated with nitrates.

I have a 10 year old child and there are at least a dozen other children in this neighborhood alone who will be affected.

We also have a gravel pit within a mile to the northeast which grinds gravel for most hours of each day which creates irritable constant noise and I'm guessing the proposed batch plant would bring it's own set of production noises.

What benefit could possibly come from a neighborhood asphalt plant is beyond any rational thought.

Thank you,

Brett Tallman

788 Lone Coyote Trail
Kalispell

Mark Mussman

From: Mary Fisher
Sent: Wednesday, June 10, 2020 4:26 PM
To: Mark Mussman
Subject: FW: Asphalt Plant, Church Dr/ Farm to Market Rd

-----Original Message-----

From: Jane Collett <collett@centurytel.net>
Sent: Wednesday, June 10, 2020 4:19 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt Plant, Church Dr/ Farm to Market Rd



Dear Mark Mussman, Hello, I am a resident of West Valley. I have been for 40 years now. I am very much "against" having the proposed asphalt plant out here across Church Dr from my home. And for all the reasons, that anyone would have, living next to it! Truck traffic, noise, smell, fumes, negative impact, decreased property values, compromised health issues. Please, please, please, reconsider this proposed Asphalt Operation. We have put up with the Meadow Gold , milk pond, odor and flies. Are still putting up with the gravel pit, which has been horrendously noisy, from morning till night, and dusty and way too much Heavy Truck Traffic. Please hear the concerns, and decide what is fair and right, for the residents of West Valley. Thank you very much. Jane Collett, 60 Cattle Drive, Kalispell, Mt 59901.....406 471-7837
Sent from my iPad

Mark Mussman

From: Mary Fisher
Sent: Thursday, July 9, 2020 4:03 PM
To: Mark Mussman
Subject: FW: Contact Message



From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Thursday, July 9, 2020 3:49 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name:	Gena Wilson
Email:	genawilson65@gmail.com
Subject:	West Valley Asphalt Plant
Message:	<p>To the Board of Adjustment, We would like to voice our opinion regarding the proposed change to the conditional use permit held by the gravel pit located on Farm to Market Road. We are vehemently opposed to the change that would allow an asphalt batch plant to be developed. West Valley is a quiet, rural, natural wonder of the Flathead Valley. The increase in traffic, potential harm to the local environment, and lack of emergency facilities should there be a fire on the property, all pose a grave danger to our wonderful neighborhood. We cannot support the proposed change to the current conditional use permit held by the gravel pit and hope you listen to the people, like us, who would be impacted so negatively by this requested modification. Sincerely, Gena and Mitch Wilson</p>

Mark Mussman

From: Mary Fisher
Sent: Tuesday, June 2, 2020 7:37 AM
To: Mark Mussman
Subject: FW: West Valley Concrete and Asphalt Plant

From: Michelle Richards <mrichards1111@hotmail.com>
Sent: Monday, June 1, 2020 10:13 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley Concrete and Asphalt Plant

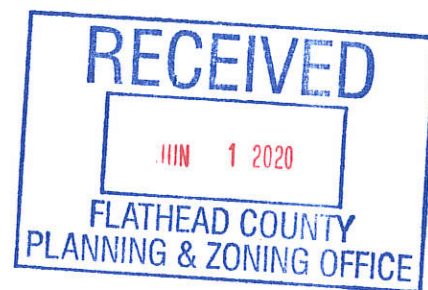


June 1, 2020.

To whom it may concern,

I live on Lone Coyote Drive just off of Church Drive and very near to the proposed West Valley Concrete and Asphalt Plant. I am deeply opposed to having a plant such as this in my back yard. The noise and pollution from the proposed plant would lower the quality of living out in this part of the Valley. The risks to public health far out weigh the need for this plant. I understand it has been denied in the past and needs to be denied again. I urge you to deny the modification to the conditional use permit held by Schellinger Construction Co. Thank you for your heartfelt consideration for the well-being of all who live in this area.

To: The Flathead County Board of Adjustments
Re: FCU-20-04, Tutvedt Gravel Pit – Batch Plant Amendment
Date: May 30, 2020



From: Walter & Christine Kroemer, 1979 Church Drive, Kalispell

We believe the findings provided by the Planning and Zoning Office are limited and incomplete for the request to change the permit to add an asphalt plant and to allow the potential addition of a cement plant at this site. I will address the findings individually.

Under **B. Appropriateness of Design** Items #4 & #5 - Fencing/Screening - According to the FLATHEAD COUNTY PLANNING AND ZONING OFFICE report, the staff reports, "There is currently fencing around the perimeter of the property along with an earthen berm with vegetation. & There is currently an earthen berm with vegetation around the entire area of the current and future mining operation such that the operation is somewhat buffered from Farm to Market Road or adjacent properties."

Currently, the earthen berm only exists on the west (Farm to Market Road) side of the current operation only. Properties to the north, northwest, south and east have a clear view of the operation. This is 10+ years after the operation was permitted and required the berm around the operation.

The following finding is incorrect Finding #7 – The current fencing/screening and landscaping on the subject property appears appropriate because there is fencing around the perimeter of the property and there is a vegetated earthen berm which provides some screening of the current and future mining operation from Farm to Market Road and adjacent properties.

Under **C. Availability of Public Services and Facilities Item #3 3. Storm Water Drainage**

Storm water within the boundaries of the gravel extraction operation is directed toward settling ponds on the pit floor. The storm water on the remainder of the property is absorbed on the property.

Finding #9 – Sewer, water and storm water facilities appear to be appropriate because portable toilets are utilized as necessary, there is no other sewage treatment facility on the site; there is an irrigation well on the property that services both the mining operation and the agricultural use; storm water appears to be effectively managed on the site.

The water table exists less than 25 feet below the base of the excavation at this site and the subsurface is a permeable layer. Reports from neighbors to the south have shown a substantial increase in well water nitrates even as far south as the West Valley Pines subdivision off of Coclet Lane due to a leak on the Tutvedt property. The existing settling ponds are inadequate to mitigate or contain potential leaks of hazardous materials that would be brought to the site for operation of either an asphalt or a cement operation including hot oil, diesel and cement (which is highly alkaline). The gravel pit is located over the Lost Creek fan. The Montana Bureau of

Mines and Geology reports (LaFave, Smith & Patton, 2003 – Information Pamphlet 4) “In some local areas, however, nitrate concentrations that are elevated over background levels were detected that might suggest a surface source of contamination. One such area is northwest of Kalispell in the Lost Creek fan, a relatively thick accumulation of glacial outwash, where confining units of till and glacial lake deposits may be locally absent and the deep alluvial aquifer may be vulnerable to surface contamination..” Any spill or release can have significant environmental impact on the water supply for numerous nearby residents and others further down on this water table.

Regarding **Finding #10** – The proposed condition modification should not adversely affect fire and police protection because the West Valley Fire District will respond to emergency and there are fire extinguishers on the equipment and water is readily available on the site. The Flathead County Sheriff’s Department will respond to any other emergency situations.

A hot asphalt plant poses additional fire risks that the West Valley Fire Department is not equipped to handle and the water on site is not appropriate for fighting a fire relating to hot asphalt or diesel.

Regarding **Finding #11** – There appears to be adequate availability of streets for the proposed use because the property is accessed via Farm to Market Road which is a major collector maintained by the State of Montana.

Accidents at or around the existing gravel operations has increased due to the hazards of slow moving traffic on Farm to Market Road and at the Church Drive intersection which is one of the feeder roads for trucks going to the site. In addition, truck traffic passing in front of West Valley School has created additional risks and also distractions due to Jake brakes. An additional increase in truck traffic in this area will likely create additional hazards and accidents. At a minimum a new traffic study should be required to determine the adequacy of the current roads in the area to handle the additional truck traffic.

D. Immediate Neighborhood Impact

Finding #12 – Additional traffic generated by the proposed batch plant is expected to be minimal because the anticipated increase in traffic on Farm to Market Road is approximately 1.5% and the increase in traffic on Church Drive will be approximately 2%.

What is proposed is installing a 400 Ton per Hour asphalt plant. If this operates at or near capacity, the anticipated traffic load could be substantially larger than the proposed 75 – 100 trips per day. In addition, if the operator choses to add a cement operation at the site as well which would be permitted, the traffic could increase substantially more. A thorough study should be completed based upon the permitted limits to determine the true potential increase in traffic if this permit change is to be considered for approval.

Finding #13 – The noise and vibrations generated by the proposed batch plant is anticipated to be minimal because there is already noise generation from the approved gravel operation.

JUN 1 2020

The earthen berm and hours of operation are designed to mitigate the noise and vibration impacts to nearby property owners.

Noise and vibration will increase because this change would be added to the existing operations. In addition, the increase in traffic will substantially increase the noise in the area. The area is zoned agricultural and residential not industrial. The addition of this change will negatively impact the neighborhood. Such an impact not only affects the quality of life of residents; it will also negatively impact their land values. Our house is ½ mile from this operation and we hear the current ongoing operation at this site from our house throughout the day.

Finding #14 – The proposed uses are anticipated to have an minimal impact on the neighborhood as a result of dust, glare, heat smoke, fumes, or gas, or odors because the dust generated from existing gravel operation is controlled by active watering of the site and the 200-foot paved approach off of Farm to Market Road. It is there is a potential for impacts to surrounding property due to the odor associated with batching asphalt.

Following are several references googled of experts who disagree with the conclusion that the fumes will have minimal impacts:

Asphalt plants are known to produce **toxic** air pollutants, including arsenic, benzene, formaldehyde, and cadmium, that may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation. A small asphalt plant producing 100 thousand tons of asphalt a year may release up to 50 tons of toxic fugitive emissions into the air. [Dr. R. Nadkarni] Stagnant air and local weather patterns often increase the level of exposure to local communities. In fact, most asphalt plants are not even tested for toxic emissions. The amounts of these pollutants that are released from a facility are estimated by computers and mathematical formulas rather than by actual stack testing, estimates that experts agree do not accurately predict the amount of toxic fugitive emissions released and the risks they pose. According to Dr. Luanne Williams, a North Carolina state toxicologist, 40% of the toxins from asphalt plant smokestacks even meet air quality standards and for the other 60% of these emissions, the state lacks sufficient data to determine safe levels.

Asphalt Fumes are Known Toxins. The federal Environmental Protection Agency (EPA) states “Asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation.” [EPA]. According to one health agency, asphalt fumes contain substances known to cause cancer, can cause coughing, wheezing or shortness of breath, severe irritation of the skin, headaches, dizziness, and nausea. [NJDHSS] Animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system. [NJDHSS] The US Department of Health and Human Services has determined that PAHs may be carcinogenic to humans. [DHHS]

Health Impacts & Loss of Property Value. The Blue Ridge Environmental Defense League (BREDL), a regional environmental organization, has done two studies on the adverse impacts on property values and health for residents living near asphalt plants. A property value study documented losses of up to 56% because of the presence of a nearby asphalt plant. In another study, nearly half of the residents reported negative impacts on their health from a new asphalt

JUN 1 2020

plant. The door-to-door health survey found 45% of residents living within a half mile of the plant reported a deterioration of their health, which began after the plant opened. The most frequent health problems cited were high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%). [BREDL]

According to this information, a 400 Ton per hour asphalt plant can be emitting 2.4 tons of toxic fumes per 12 hour day into the air. This is not an insignificant hazard. To put this amount of toxic emissions into a residential area is not only unconscionable; it is also totally in opposition to the West Valley Neighborhood Plan and the zoning for the area.

This is a major concern for my wife and me as my wife suffers from Lupus and Fibromyalgia. She is extremely sensitive to many chemicals and numerous foods. She has suffered from rashes and hives from various sources. Since we only live ½ mile from this site and winds are a part of life in West Valley, airborne toxic chemicals are a major concern. Also, we have put a lot of time, effort and expense into recently remodeling our 30+ year old home on Church Drive and have just recently moved back into it. Being recently retired property values are a big concern. This concern is exacerbated by the potential that we might need to move again and sell this property should my wife's health be negatively impacted by the addition of an asphalt and potentially a cement plant at this site.

Conclusion:

We strongly recommend the Board of Adjustments disapprove of this change to the CUP. The findings of facts prepared by the Planning and Zoning office are flawed. It appears only to take into account the initial proposal from Schellinger Construction for minimal use (initially) for an asphalt plant at this site. It does not account for the plan to move a 400 ton/hour asphalt plant to this site and the potential for high usage of this plant, nor does it account for the potential that the applicant can also install a cement batch plant at this site should they so choose to do so if this change is approved.

The proposal to add an asphalt plant at this site is a change from agricultural related usage of this site (extraction of mined materials) to an industrial application for this site. This change is incompatible with the zoning for this site which is agricultural and residential. Any change to an industrial usage of this site should require new studies of the potential effects to the ground water, the air quality, and transportation issues related to this usage.

For these reasons which include, health risks, accident risks, property devaluation, a negative impact to quality of life for residents and current zoning – WV (West Valley), we believe the BOA should disapprove of this change.

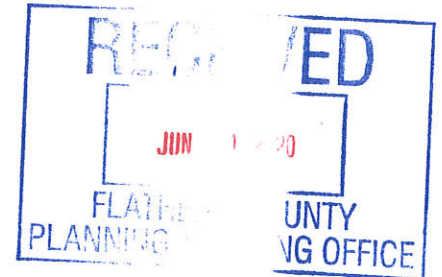
Thank you for your time,

Walter & Christine Kroemer
1979 Church Drive

JUN 1 2020

Mark Mussman

From: Mary Fisher
Sent: Monday, June 1, 2020 3:59 PM
To: Mark Mussman
Subject: FW: Contact Message



From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, May 31, 2020 10:41 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name:	Christopher willis
Email:	kip.willis.61@gmail.com
Subject:	west valley
Message:	<p>For the last 5 years the gravel pit has been operating out of scope regarding their operations. As you drive northbound on farm to market road they are required to have to yellow caution signs erected and one of the signs has been missing for 5 years yes for 5 years this sign is missing, the sign poll is still in the ground. So think about this the gravel pit is not in compliance for 5 years regarding caution signs on farm to market road. I have contacted the planning office 2 or 3 occasion's this year regarding gravel trucks departing the gravel pit heading southbound in a clear violation of their operating instructions. Trucks are not permitted to travel southbound towards west valley school during the afternoon.. If something as simple as a 4 ft² sign not being installed on the highway shows good governance and guidance regarding your operations how will any thing else be applied to their operating restrictions and I also contacted Schellenger construction regarding the truck routes and only had them tell me "that they are not responsible for gravel trucks driving southbound during school hours." Page 18 paragraph 3 States in the West Valley neighborhood plan there shall be no commercial or industrial operations in West Valley. I think it is terrible that they can have the odasity to apply for another permit, on top of the permit regulations that they are not currently following. When 275 neighbors meet at the school and raised 7500 dollars to take the court case to the Montana Supreme Court and sued them years ago and the Supreme Court sided with the neighbors, not with tutdvets or schellenger construction who were clearly wanting to violate the terms of the West Valley neighborhood plan. The Supream Court clearly read the neighborhood plan and I suggest a no vote on the application and I also suggest an audit to see what other current violations they have besides not having the highway signage in full correct display. Thank you very much, sincerely Christopher Willis</p>

To: Flathead County Board of Adjustment members, Cal Dyck, Gina Klempel, Ole Netterberg, Roger Nobel, Tobias Liechti.

From: Frank and Linda de Kort, 1290 Lost Creek Drive, Kalispell

Re: FCU-20-04

Date: May 17, 2020



We are residents of West Valley and we request that you deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road.

We have many objections to this plant and the manner in which it seemed to be expedited. Our main concern however is based on the staff report's argument that there are other asphalt batch plants that have been approved in this area since the definition of gravel extraction has been changed. The report argues that the Tutvedt gravel pit, which was approved prior to this change in definition, should therefore be given the same economic benefit. Our counter argument is that these existing asphalt plants are located in very different geological locations. The Tutvedt gravel pit is located over the very fragile Lost Creek Fan. As determined by the Montana Bureau of Mines and Geology (Favre, Smith and Patton, 2000): ***"Lost Creek fan (is) a thick accumulation of outwash deposited by glacial meltwater. These data suggest that protective layers of till and glacial-lake deposits may be locally absent or discontinuous and that the deep alluvial aquifer may be locally vulnerable to surface contamination."*** It is this vulnerability to surface contamination that is so concerning because asphalt contains toxic chemicals. According to Ullman's Encyclopedia of Industrial Chemistry: ***The components of asphalt include four main classes of compounds: Naphthlene, High Molecular weight phenols, Carboxylic acids, Saturated hydrocarbons. In addition, most natural bitumens also contain organic sulfur compounds, nickel and vanadium.***

The potential of a major accident or even a minor spill at the asphalt plant contaminating Lost Creek Fan from which residents receive well water was not addressed. In fact both the application and the staff report state unequivocally that: "all environmental impacts are addressed."

Another major concern that we have is the growing residential nature of the surrounding property on Farm to Market Road. The other two existing asphalt treatment plants in the West Valley area are on back roads with few existing residences. The location map which was submitted with the application is dated

12/18. Many new residential plots have been established and developed, several by the applicants themselves, since that map was produced.

Moreover, "GRANDFATHERING IN" works both ways. Our understanding is after a rule (or definition) change, new rules and definitions apply to new members only. The old members are "grandfathered in" in which case, the old rules still apply. Since the original gravel pit permit specifically prohibited asphalt and concrete batch plant, that prohibition is grandfathered in despite the change in definition made after the permit was granted.

We also find it very unsettling that this application and review process seems to be hurried through. The application lacked any details of the plant design, duration, dimensions...etc. The original staff report was extremely deficient of detail and examination. The carelessness with which this important issue was handled is very evident in the last cut and paste paragraph of the original staff report:

"Upon review of this application, the request to allow for Recreational Facility on the subject property is generally supported by the review criteria and the Findings of Fact listed above. "

We are certain that if indeed a recreational facility were the subject of review here, it would not be subjected to such opposition by the neighborhood.

We conclude that because of the major environmental concerns and related legal issues, this application should be rejected. We trust that you will conclude the same.

Sincerely,

Frank and Linda de Kort
1290 Lost Creek Drive
Kalispell, Montana 59901

Tele: 406 755 3704

MAY 27 2020

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 27, 2020 9:39 AM
To: Mark Mussman
Subject: FW: Asphalt plant, West Valley

From: Ken Butts <mtxport@yahoo.com>
Sent: Wednesday, May 27, 2020 9:04 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt plant, West Valley



Hello

I wish to write to you today in opposition of the proposed asphalt plant in the West Valley. It goes against the original agreement that was made & I believe it would be seriously detrimental to our area. The traffic, dust & noise that we currently experience with the gravel pit is bad enough.

The presence of the asphalt plant would greatly increase the flow of heavy vehicle traffic, the noise and the smell of such a place in our neighborhoods would not only aggravate us as residents but would also cause property devaluation for a wide area of people.

The agreement was made 10 years ago in good faith & I believe that that agreement must stand as is with no changes or additions that will further depreciate our property's and life styles!

Thank you.

To: Mark Mussman, Flathead County Planning and Zoning

From: Edward and Barbara Myers
180 West Valley Acres
Kalispell, Montana

Date: May 20, 2020



Dear Mr. Mussman and Flathead County Planning and Zoning Board:

We have lived in **RESIDENTIAL** West Valley since 1992 when we built our home to live out our retirement years. We have enjoyed living in this quiet, clean and friendly area, and have raised a garden and worked hard to improve our property. We were very disappointed when the gravel pit began operation a number of years ago, and noticed a significant increase in traffic on Farm to Market Road, noise from gravel extraction, and increased dust in our home.

We are very dismayed to learn of the Section 16 Family Limited Partnership and Schellinger Construction plans to construct an asphalt and/or concrete batch plant at the site of the Tutvedt gravel pit. We are **strongly opposed** to this request to modify the Conditional Use Permit to allow this construction. We are disappointed and angry that the pit owners are going back on the agreement they made in 2010 to give up on the right to a batch plant proposal.

The character of West Valley will be significantly changed if this is approved and we begin to allow industrial operations here. Children attending West Valley School will have to deal with more noise and traffic as they are learning, and residents of this area will experience more pollution in our skies, dust in our homes, and unwanted noise from trucks and extraction and processing work. The berms around the pit do not keep the noise of the operation from being heard at our home to the south. This will do nothing but increase with the existence of a batch plant. Our home values will likely decrease (as will county tax revenue from property tax) if there is a batch plant within sight, sound and smelling distance of our residential neighborhoods.

Please do not allow this request to modify the current existing use permit. Protect this residential area from becoming industrial.

Barbara Myers *Ed Myers*

May 24, 2020

Mark Mussman
Flathead County Planning and Zoning
40 11th Street West, Ste 220
Kalispell, Montana 59901



To Whom It May Concern;

My husband and I raised our family here in West Valley. In our 25+ years here we have seen many changes. When the gravel pit was approved about 1 ½ miles to the north of our home we had concerns but with the agreement in place, along with the Supreme Court decision supporting West Valley as a residential area, we accepted the pit.

Since the Tutvedt pit has been operational we have seen the truck traffic increase substantially. Regardless of the "rules" in place concerning the traffic by the school, many trucks drive by the school on a daily basis.

Receiving notice regarding the Tutvedt plan to now push for the permitting to process asphalt and concrete was shocking. What happened to the agreement to not process these products? What happened to "no asphalt plants nor concrete plants shall be allowed in an area deemed residential"? How much more residential can it get with houses directly to the south of the existing gravel pit?

This proposed plant, despite the "staff report" findings, will produce the following problems:

Pollution

Asphalt plants mix gravel and sand with crude oil derivatives to make the asphalt used to pave roads, highways, and parking lots across the U.S. These plants release millions of pounds of chemicals to the air during production each year, including many cancer-causing toxic air pollutants such as arsenic, benzene, formaldehyde, and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site, including volatile organic compounds, polycyclic aromatic hydrocarbons (PAHs), and very fine condensed particulates. [EPA]

Asphalt fumes are known toxins. The federal Environmental Protection Agency (EPA) states "Asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants such as formaldehyde, hexane, phenol, polycyclic organic matter, and toluene. Exposure to these air toxics may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation." [EPA]. According to one health agency, asphalt fumes contain substances known to cause cancer, can cause coughing, wheezing or shortness of breath, severe irritation of the skin, headaches, dizziness, and nausea. [NJDHSS] Animal studies show PAHs affect reproduction, cause birth defects and are harmful to the immune system. [NJDHSS] The US Department of Health and Human Services has determined that PAHs may be carcinogenic to humans. [DHHS] According to the National Institute for Occupational Safety and Health: asphalt fumes are considered potential occupational carcinogens.

According to the federal Occupational Safety and Health Administration, exposure to asphalt fumes can cause headaches, skin rashes, fatigue, reduced appetite, throat and eye irritation, and coughing. Asphalt paving workers, for example, have reported breathing problems, asthma, bronchitis, and skin irritation, according to OSHA, and studies have reported lung, stomach, and skin cancers following chronic exposures to asphalt fumes. source: <http://www.osha.gov/SLTC/asphaldfumes/index.html>

Health Impacts & Loss of Property Value.

The staff report regarding this proposed plant is incredibly inaccurate regarding the impact this would have on the surrounding residential neighborhoods.

The Blue Ridge Environmental Defense League (BREDL), a regional environmental organization, has done two studies on the adverse impacts on property values and health for residents living near asphalt plants. A property value study documented losses of up to 56% because of the presence of a nearby asphalt plant. In another study, nearly half of the residents reported negative impacts on their health from a new asphalt plant. The door-to-door health survey found 45% of residents living within a half mile of the plant reported a deterioration of their health, which began after the plant opened. The most frequent health problems cited were high blood pressure (18% of people surveyed), sinus problems (18%), headaches (14%), and shortness of breath (9%). [BREDL]

Noise from the proposed plant is also a negative impact on the residential areas surrounding the proposed plant. Smoke, dust and odors from the toxic mix of chemicals interfere with surrounding residential owner's enjoyment of their property. The possibility of fire/explosion is very real putting nearby residential communities at risk.

Traffic

The estimation regarding increased traffic is 75 – 100 more trips per day on Farm to Market and Church Drive. There is already an existing traffic issue at West Valley School not to mention the increased heavy truck traffic puts the West Valley school children at risk.

What changed in the area around the Tutvedt pit besides increased residential expansion which you are now considering an expansion of an industrial business in a residential area?

As residential property owners in west valley we oppose any new industrial permitting and expansion in west valley.

Glen and Dawn Olson

157 West Valley Acres

Kalispell, Montana 59901

MAY 22 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 26, 2020 7:44 AM
To: Mark Mussman
Subject: FW: Attn: Mark Mussman



-----Original Message-----

From: Reed Kuennen <rkuennen@centurylink.net>
Sent: Monday, May 25, 2020 5:50 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Attn: Mark Mussman

I have lived on Farm to Market Road for more than 30 years. I was a teacher and later worked for the Forest Service in Kalispell. I drove past the gravel pit on Farm to Market Road on a regular basis on my way to work.

I am writing to regarding Conditional Use Permits (FCU-05-07,FCU-08-07) to allow concrete and asphalt batch plants on an existing gravel extraction operation being considered by the Flathead County Board of Adjustment (BOA). I wish to let you know I do NOT support an asphalt plant on Farm to Market Road or Church Drive. The location is not appropriate for such an activity as it is a residential area, is close to West Valley school, and is on a 2 lane road which has narrow shoulders and was not designed to a standard to support this kind of commercial traffic.

I understand this request must first be heard by the West Valley Land Use Advisory Committee (WVLUAC). I would attend the meeting but I am in Washington State taking care of my granddaughter at the moment. Please submit this letter as my formal comment.

I am familiar with the Schellinger and Tutvedt families and feel confident that they can find another more suitable location for an asphalt plant. They may have an increased gravel haul distance at another site, but they have enough land around the valley that I am sure they could figure out another option or trade land for a more suitable asphalt plant site.

Please honor the original court settlement and deny the asphalt plant.

Mary Reed Kuennen
7660 Farm to Market Rd.
Whitefish, MT 59937

406-862-6716

Mark Mussman

From: Mary Fisher
Sent: Friday, May 22, 2020 11:22 AM
To: Mark Mussman
Subject: FW: Asphalt/Concrete Batch Plant



From: Michelle Flink <michelleflinkremax@gmail.com>
Sent: Friday, May 22, 2020 10:48 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt/Concrete Batch Plant

Hello,

My name is Michelle Flink; I am a local who lives in the Flathead Valley. I am very concerned with this proposal and hope you do everything in your power to deny this. It concerns me how close this will be to residential homes, schools, nearby churches, farm animals, etc.

Best Regards,

Michelle Flink, GRI

RE/MAX Whitefish
C 406-249-1924 | O 406-863-3400
Fax 406 863 3415
509 East 6th Street Whitefish, MT
www.remax-whitefish-mt.com

Mark Mussman

From: Mary Fisher
Sent: Friday, May 22, 2020 12:59 PM
To: Mark Mussman
Subject: FW: asphalt and concrete batch plant

Importance: High



From: Shirley Giles <shirley@robgileselectric.com>
Sent: Friday, May 22, 2020 12:58 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Fw: asphalt and concrete batch plant
Importance: High

Mark Mussman

I just want to voice our opinion on this. We live in the West Valley and it is a beautiful part of the Flathead. Please do not allow this to happen. We already have one portion designated, keep it there. We don't need another one, especially in the West Valley. It only depreciates the value of our homes

SAY NO!!

Thank you,

Rob and Shirley Giles
1763 Old Reserve Drive
Kalispell, Mt 59901

From: West Valley
Sent: Sunday, May 17, 2020 3:22 PM
To: westvalleyneighbors2020@gmail.com
Subject: asphalt and concrete batch plant

**Say "NO" to an asphalt and/or concrete batch plant
at Church Drive and Farm to Market Road.**

May 16, 2020

A deal's a deal. In November 2010, after five years of litigation, the landowners made an agreement with their West Valley neighbors – they would give up the right to an asphalt operation and in exchange would be allowed to operate a gravel pit with extraction and crushing. **Period.** They should honor and abide by the deal and LEGAL AGREEMENT they made. (MT Eleventh District Court Final Judgment, Cause No. DV-08-985B. Nov, 2010).

A request by Schellinger Construction Co. on behalf of Section 16 Family Limited Partnership (signed by Linda Tutvedt) to modify a condition of approval from previously approved Conditional Use Permits (FCU-05-07,FCU-08-07) to allow concrete and asphalt batch plants on an existing gravel extraction operation is being considered by the Flathead County Board of Adjustment (BOA). This request must first be heard by the West Valley Land Use Advisory Committee (WVLUAC).

WHAT YOU CAN DO TO VOICE YOUR OPPOSITION TO THIS PROPOSAL

-
-
- Write
- a letter to the BOA explaining why you are opposed to the batch plant proposal.

- -
 - Attend
- the WVLUAC meeting on :
- Thursday, MAY 21 at 5:30 -9:30 at the County Fairgrounds Expo Bldg.
- WVLUAC will meet to discuss the request by Schellinger Construction/Linda Tutvedt to be allowed a batch plant at this gravel pit. ***The Planning Zoning office will be there to answer questions and hear disapproval/approval.
- Please wear a mask, if possible. Social distancing will be in place.
- It is IMPORTANT that you attend if you can.

-
-
- If
- you cannot
- attend, and you want to make sure your voice is heard, send an email to Mark
- Mussman
- at:
- Planning.Zoning@flathead.mt.gov

or

Mark Mussman
Flathead County Planning and Zoning
40 11th Street West, Suite 220
Kalispell, MT 59901

EVEN IF YOU HAVE ALREADY SUBMITTED a letter to the BOA, attend the meeting or send a note voicing your opinion. This then becomes part of the public record.

-
-
- Attend
- the June 2 teleconference meeting of the Board of

MAY 22 2020

Adjustment

Directions for this meeting can be found at the Planning and Zoning Office site:

All the documents and comments related to this matter can be found at this site.

https://flathead.mt.gov/planning_zoning/boardofadjustment.php

(over)

There have been around 70 letters received by the BOA, so far, showing that the Flathead County Planning office staff report for this request is INADEQUATE and ERRONEOUS. Read the report at:

https://flathead.mt.gov/planning_zoning/boardofadjustment.php

***DECREASED PROPERTY VALUES...**Do you believe that allowing an asphalt and/or concrete batch plant will impact property values and property rights? If so, then the amendment would go against the Flathead County Zoning Regulations (FCZR) 2.06.080 and 2.06.090 that states Applicant (Schellinger for Sec16 Family Ltd Partnership) must show that there will be “no detriment to the neighborhood...”

***TRAFFIC ...** The report estimates 75-100 more trucks per day on Farm To Market and Church. On what facts do they base this? Have they included extra trucks for sand and oil? (Finding 11-12)

***NOISE.** The winds blow strong and wide in the WV. The existing berms are inadequate to mitigate impact to nearby property owners. Noise is a **NEGATIVE** impact.()Finding 13

***ODOR...** Do you think that the odors and fumes from an asphalt plant will affect you? The staff report asserts “...minimal impact as result of dust, heat, smoke, fumes, odors”. Do (Finding 14)

*** HOURS OF OPERATION...** Do you want to hear the noise, obnoxious fumes, and battle with truck traffic on a **SATURDAY**? The staff report states, “HOURS OF OPERATION appear to be appropriate ... 7 am – 7pm, AND **SATURDAY** 7am -2 pm. (Finding 15)

*** NO ASPHALT IN RESIDENTIAL AREAS...**The Montana Supreme Court ruled that West Valley is a residential area. The District Court stated that “asphalt and concrete plant operations are prohibited”. (Montana Eleventh District Court Judgment in Tutvedt Family Partnership vs Flathead Co et al) Nov 2010.

***APPROVAL OF REQUEST WILL SET A PRECEDENT...**Are you worried that this will open the door to industrial and/or commercial permits in West Valley?

By writing and/or attending the meetings, you will help keep West Valley *residential and not industrial*, and maintain your property’s beauty and value.

**PLEASE FORWARD THIS TO EVERYONE YOU KNOW
WE NEED EVEN MORE than the 70 disapproval letters sent by residents.**

**IF YOU WANT TO BE KEPT INFORMED REGARDING THIS MATTER, SEND AN
EMAIL TO:**

WESTVALLEYNEIGHBORS2020@GMAIL.COM

MAY 22 2020

To: The West Valley Land Use Advisory Board

RE: **FCU- 20-04** A request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07.

Thank you for taking extra effort to provide this hearing opportunity.

We would suggest that the first action the West Valley Land Use Advisory Committee should take is to request that the Flathead County Zoning Administrator make a formal determination of if this matter can be properly heard before this Committee or the Board of Adjustment or if the applicant is legally bound to first take this request back to Flathead District Court compliant with the court order set forth in the court order Tutvedt Family Limited Partnership vs.Flathead County, Eleventh Judicial District Cause No. DV-08-985B

Suggested WVLUAC Motion: I move that the Flathead County Zoning Administrator make a determination whether or not this a request from Rob Koelzer, Schellinger Construction Co. on behalf of Section 16 Family Limited Partnership to modify a condition of approval from previously approved Conditional Use Permits (FCU-05-07, FCU-08-07) to allow concrete and asphalt batch plants on an existing gravel extraction operation, can be heard by this committee or the Board of Adjustments or if the District Court retains jurisdiction over the matter under the court settlement reached in Tutvedt Family Limited Partnership vs.Flathead County, Eleventh Judicial District Cause No. DV-08-985B in 2010.

That court order held:

8. This Court shall retain jurisdiction of this case for the purpose of enabling any of the parties to this stipulation to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this stipulation, to modify or terminate any of their provisions, to enforce compliance, and to punish violations of its provisions. If it shall be made to appear to the Court that there has been a violation of any of the terms of this stipulation, upon motion, this Court may enter an order to show cause why the party in violation should not be found in contempt. Nothing in this document shall bar any party from seeking, or the court from imposing, against any party any other relief available under any other applicable provision of law for violation of this document, in addition to or in lieu of the civil penalties provided for above.

Furthermore in the case of Tutvedt Family Limited Partnership vs. Flathead County, Eleventh Judicial District Cause No. DV-08-985B, in which the parties – Tutvedt and Flathead County – **reached a settlement, which included affirming the absolute prohibition against asphalt manufacturing (batching) on the site.** The District Court adopted the parties’ settlement in its November 22, 2010 Stipulated Consent Decree and Final Judgment, and in its judgment **the Court ruled that should the need arise in the future to construe or interpret the Court’s Decree, that the Court retained jurisdiction over the matter in order to allow the Court to be the entity by which such construction or interpretation would be made.**

Without this determination by the Flathead County Zoning Administrator any action you take regarding this application would likely be mute and likely without legal authority.

Finally we would remind this committee that you have clear authority to recommend denial of this application under Flathead County Zoning regulations as set forth below and that a “refusal is not the denial of a right, conditional or otherwise.”

2.06.090 Burden of Proof.

The burden of proof for satisfying the aforementioned criteria shall rest with the applicant and not the Board of Adjustment. **The granting of a Conditional Use Permit is a matter of grace, resting in the discretion of the Board of Adjustment and a refusal is not the denial of a right, conditional or otherwise.**

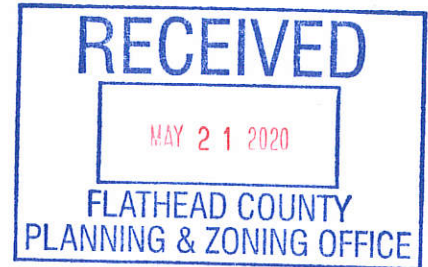
2.06.100 Board of Adjustment Decision Based on Findings.

Every decision of the Board of Adjustment pertaining to the granting, denial, or amendment of a request for a Conditional Use Permit shall be based upon “Findings of Fact”, and every Finding of Fact shall be supported in the records of its proceedings. The conditions in Section 2.06.080 as they relate to matters, which the Board of Adjustment is empowered to review under these regulations, shall be construed as a limitation on the power of the Board of Adjustment to act in the matter of issuance of Conditional Use Permits. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these regulations.

You also have the authority to deny this permit in accordance with the Montana Supreme Court Ruling in 2008 that held “For the foregoing reasons, we affirm the District Court’s conclusion that the Board had the power to prohibit asphalt and concrete batch plant operations under § 76-2-209, MCA.” Additionally the court held “The Regulations and the Plan speak for themselves in this case, and demonstrate convincingly that the District was defined as “residential” by the Commissioners, even though the District permits other uses. Accordingly, the authority of the Board falls within the § 209(2), and it may completely prohibit concrete and asphalt batching operations in the District.”

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 2:35 PM
To: Mark Mussman
Subject: FW:



-----Original Message-----

From: Lisa McLellan <kentandlisam@yahoo.com>
Sent: Thursday, May 21, 2020 2:34 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject:

Please hear my opposition of possible asphalt plant on Church and Farm to Market.

This is absurd to put in a neighborhood. My issues are: I have a daughter who has severe Lung disease. This would be detrimental to her health and COULD kill her. She is on oxygen 24/7.

Home price decrease We have worked hard to build the value of our home. This would threaten future appreciation and ultimately my long term retirement.

This is a living breathing community that would be highly affected not only monetarily but physically harmed with potential long term health issues. There would be severe repercussions to anyone approving with potential lawsuits should harm come to anyone.

Please be thoughtful and smart

Thank you.

Lisa McLellan
881 Lone Coyote Trail
Kalispell MT 59901
(406)2618313

Sent from my iPhone

Mark Mussman

From: Angela Phillips
Sent: Thursday, May 21, 2020 1:33 PM
To: Mark Mussman
Subject: FW: Schellinger/Tutvedt

-----Original Message-----

From: bailey2009@centurytel.net <bailey2009@centurytel.net>
Sent: Thursday, May 21, 2020 1:13 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger/Tutvedt



Attn: Mark Mussman

Dear Mr. Mussman,

We would like for you to take note that as land owners (2775 Farm To Market Rd.), we very much oppose the proposed Schellinger/Tutvedt batch plant.

Looking to the past, the community, for the most part, was not in favor of the gravel pit, for reasons I'm sure you are very well aware of. But, we conceded, and they got a gravel pit. Without, a batch plant. Now, we move to present and here we are again. If you approve this batch plant, again the quality of our lives and the value of our land goes down. AGAIN!

Now we look to future, the Tutvedt's reclaim the pit, after they have mined it, drove numerous trucks down are roads and made us listen to their plant running all day long, only to request to put in a large subdivision. Again affecting the quality of life to their surrounding neighbors.

We ask that you not pass this batch plant, and instead put your time and energy in to making sure the gravel pit they have now on Farm To Market and the one they have on West Valley Drive is being managed properly(ie; reclaimed when its supposed to be) and that large trucks hauling gravel for Schellinger and LHC aren't turning into oncoming traffic to make turns off Church Drive!

Thank you for your time.

Sincerely,

Mitch and Holly Bailey

W. Kim and Janet Davis
200 Brookside Trail
Kalispell, MT 59901



Dear Flathead County Board of Adjustment:

As residents of West Valley and an active part of the community members that came together to produce the West Valley Neighborhood Plan, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow “asphalt and concrete operations”. This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The conditional use permit that was allowed was specific to strictly gravel extraction. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. We understand the the County has changed the definition of “gravel extraction”. That may work in other areas where more industrial type operations are permitted, but West Valley remains an agricultural and residential community. The plan specifies “Industrial uses should not be permitted except those accessory to normal farm operations”.

We would ask that you not allow this change to the permit that was issued, which prohibited asphalt and concrete batch plant operations.

Thank you very much for your time and effort in this matter, and thank you for your service to the community.

Sincerely,

W. Kim Davis

Janet Davis

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 11:49 AM
To: Mark Mussman
Subject: FW: letter of opposition for West Valley asphalt plant
Attachments: Tomlin asphalt plant letter May 2020 ver 2.docx



From: MT Sky Nikki <firstfruits77@montanasky.com>
Sent: Thursday, May 21, 2020 11:46 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: letter of opposition for West Valley asphalt plant

A Word document is attached below with the same information if you have trouble viewing the pasted content.

May 20, 2020

To: The Board of Adjustment

Kalispell Planning Department

Ladies and Gentlemen:

I object to the new proposal by Rob Koelzer on March 16, 2020 to modify the existing conditional use permit at the Tutvedt gravel pit to now include the construction of an asphalt and concrete processing plant. Point #28 of the original 2005 Conditional Use Permit Staff Report (F CU-05-07a) states that “asphalt and concrete batch plant operations are prohibited”. This was upheld in an agreement between Flathead District Court and the Tutvedt Partnership in 2010. It has maintained this status to date.

I think it is disingenuous that the Tutvedt Partnership feels they do not have to abide by the decisions they agreed to back in 2010. Do we live in a land where rules, agreements, and court decisions are now relative and flexible based on the current wants and needs of the requesting parties? I think not and, in my view, this is an issue of integrity for all parties involved to uphold the rulings that have been previously put in place. Additionally, West Valley was designated by the Montana Supreme Court in 2008 as a **RESIDENTIAL NEIGHBORHOOD**, free from any commercial and industrial development. I feel that if the conditional use permit is expanded, that is exactly what will happen in West Valley and open the door to further encroachment by other heavy industries and businesses. Like the old saying goes, if the camel's nose gets under the tent, the rest of the camel is coming along. Let's keep the West Valley in its pristine natural beauty now and forever. That's why I moved to this area to begin with.

There are other issues with concrete and asphalt plants in residential communities that I would like to point out based on my internet research and research with OSHA and the EPA. They are:

1. **CONCRETE PLANTS:** Concrete plants are complex industrial operations that involve a lot of multi-story structures and moving machinery such as conveyor belts, rock crushers, 30 to 40-foot high silos for storage, and lots of heavy equipment to move large quantities of materials. It takes multiple pieces of heavy equipment to support a concrete batch plant and neighbors will be subjected to constant noise pollution all day with trucks coming and going, beeping as they back up, and enduring the constant smell of diesel fuel as trucks idle while waiting

for a new load. Beyond the noise pollution, neighbors will also be subjected to particulate emissions (i.e. constant dust) coating their homes and cars and causing respiratory problems such as decreases in lung function, aggravation of asthma, emphysema, and risk of heart attacks. The size, scope, visual challenges of 40' structures, noise from the batch plant and heavy trucks, and health challenges are not compatible for a RESIDENTIAL NEIGHBORHOOD.

2. **ASPHALT PLANTS-PERSONAL HEALTH:** Asphalt plants are known to produce toxic air pollutants, including polycyclic aromatic hydrocarbons such as arsenic, benzene, formaldehyde, and cadmium that may cause cancer, reproductive disorders, neurological problems, liver damage, respiratory problems and skin, throat, or lung irritation. The following is stated in an article from the Moab Sun Times (Utah) in December 2019: *"The toxic cloud from this plant has consumed my home, making both my partner and I sick with headaches and nausea," Kiley Miller told the Grand County Council. Miller lives about four miles from the Nielson Construction asphalt and aggregate processing plant in northern San Juan County, which she says has made "the air filled with a metallic-like cloud that makes the sun look strange and the taste in my mouth change."*

Another quote from this same article says the following: *"Anybody that's in close proximity to an asphalt batching plant has very legitimate concerns about the health consequences and their exposure to pollution," said Dr. Brian Moench. Moench is the board president of Utah Physicians for a Healthy Environment, an organization of medical professionals advocating for environmental health in Utah".*

Based on reading other articles from OSHA and the EPA, polycyclic aromatic hydrocarbons (PAH) attach to dust particles and can be distributed throughout the outside ambient air. They are also off-gassed from the heavy trucks (i.e. "fugitive emissions") distributing the asphalt throughout the community. These PAH's are also found in soil, penetrating down to ground water tables, thereby potentially contaminating wells. The EPA states that stringent dust mitigation is critical for the prevention of PHAs in the environment. Of particular note, these articles stated that these hydrocarbons are found to be in very high concentrations in plants and animals that are proximate to asphalt plants. I would like to point out that the Kalispell Creamery dairy is near the gravel pit and so are agricultural fields where canola and other crops are grown. There is also an adjacent crane breeding sanctuary that would be affected. I read that the Tutvedt proposal said that an "odor" would emanate from the asphalt plant, but there was no mention that the "odor" would include PHAs.

Now, I would like to point out, once again, that West Valley is a **RESIDENTIAL NEIGHBORHOOD**. There is a new 6-home new development just to the south of the gravel pit and there is also a new planned 20-acre per home development just to the west of the gravel pit. These people, in addition to all of the people living up and down Farm to Market Road and Church Drive would be in a health peril due to how PHAs spread, according the OSHA and the EPA studies.

3. **ASPHALT PLANTS-FIRE HAZARDS:** According to industry publications, there are multiple fire and/or explosive factors to consider when dealing with asphalt and its preparation, storage, and transfer, including asphalt self-ignition under certain conditions. Asphalt needs to be kept at a temperature of about 300 degrees F. It is unclear as to how the Tutvedt operation will heat the asphalt. Options include oil, natural gas, electricity, or propane. If gas or propane, this naturally leads to multiple questions related to propane tank size, delivering, storing, and monitoring the transfer of propane. These are hazardous conditions that should not be dealt with in a **RESIDENTIAL COMMUNITY** where the threat of explosion and fire is real with the right ignition source.

4. **TRAFFIC & SAFETY:** There is already heavy industrial activity at the gravel pit. I live on Farm to Market Road and have seen a noticeable increase in heavy truck traffic on both Farm to Market Road the Church Drive over the last few months. More will come if concrete and asphalt plants are built – more machinery, more trucks, more noise, more dust, and more heavy vehicles up and down these roads that will encumber the flow of traffic. And, by the way, these roads have no shoulders for emergency situations that might arise. I have not seen any realistic projections over the next 5 – 10 years of what this additional heavy vehicle traffic would look like as a result of the concrete and asphalt plants. Keep in mind that school children, busses, and mail delivery people all drive and stop sporadically on these roads. They are at risk for collision with increased traffic and especially traffic from heavy equipment. Furthermore, in terms of safety, I do

not see any dedicated deceleration or turn lanes into the Tutvedt property to get the slowing trucks off the main road. Currently cars are passing these trucks and it's just a matter of time before we see a head-on collision.

5. **PROPERTY VALUES:** There is general consensus among most of the articles I read that property values decline precipitously in the vicinity of an asphalt plant. In one city, the property values on average declined a whopping 56% with 45% of residents also reporting ill-effects from the asphalt. As you know, West Valley has a pride of ownership. People have nice homes and they keep them up. Having an industrial complex next to our homes is a loser proposition. It's a loss of financial investment, a loss of quality of life, and a loss of outdoor recreation and activity.

6. **ON-GOING MONITORING:** Every article that I read talked about the need for asphalt and concrete toxic emissions monitoring. The question becomes how to do that to get accurate results. Currently, these emissions are estimates that are calculated by computer algorithms or mathematical models. They do NOT monitor actual emissions, so no one really knows what "safe" emissions are. In my opinion, the argument of "acceptable risk" is a flawed one when we are dealing with known adverse medical consequences from aromatic hydrocarbons and dust particulate matter. Furthermore, we cannot allow Tutvedt to monitor itself, as this would be a case of the fox guarding the hen house. Given these flawed monitoring factors alone, concrete and asphalt batch plants should be away from RESIDENTIAL NEIGHBORHOODS.

CONCLUSION: West Valley is a **RESIDENTIAL COMMUNITY** of seniors, parents, children, dogs, cats, horses, victory gardens and, in general, people who just want to live their lives in peace and in health. They do not want their "back yards", their views, and their breathable air turned into a toxic brew of noise and pollution. Hands down, in all of the articles I reviewed, there was not one residential community that wanted a batch plant in their back yards. Heavy industry needs to be located in an industrial park, not in a residential community. Please help us to retain our neighborhood without the intrusion of more industry and especially, the intrusion of a toxic asphalt and concrete batch plant. The court ruled a long time ago that asphalt and concrete plants were not allowed in West Valley. Please do what is right and honor that decision. Thank-you.

Sincerely,

Nicola Tomlin

3010 Farm to Market Road

Here is the Word document if it is easier to read:

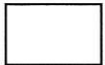
Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 10:50 AM
To: Mark Mussman
Subject: FW: west valley asphalt and concrete plant--



From: McGregor Rhodes <mrhodes50@gmail.com>
Sent: Thursday, May 14, 2020 7:46 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: west valley asphalt and concrete plant--

Hello, I live near the proposed project and I have read the application and I found it to be incomplete. I am concerned about the pollution of my water supply and the pollution of the air in the west valley. I do not think that an industrial use such as asphalt and concrete belongs in a farming, ranching and residential area.. What is going to happen when rain and snow melt percolates through piles of discarded asphalt? What happens when asphalt oil is spilled onto the ground? Does this project require a discharge permit from the State of Montana? The application does not address the increase in traffic, noise, fire and rescue issues and generally the application just glosses over any unintended consequences of a project of this magnitude. I have formed and poured 1000's of yards of concrete and in the summer we had to be pouring concrete before 7:00 AM so the proposed hours of operation are not realistic, because a concrete batch plant has to start operating well before 7:00 AM to meet the demands of customers. I hope you will consider the impacts of this project on the west valley and deny this application. Thank you for listening to me-- McGregor Rhodes, 644 Bald Rock Road-



Virus-free. www.avg.com

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 10:41 AM
To: Mark Mussman
Subject: FW: please vote NO on the asphalt plant



From: Helen Pilling <helenpilling88@gmail.com>
Sent: Thursday, May 21, 2020 10:40 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: please vote NO on the asphalt plant

Hello to you all,

It is not right that one business can change the rules (2010 deal) affecting the whole area for the negative. A gravel pit is invasive enough but an asphalt plant is absurd.

The air pollution, noise pollution and potential ground water pollution will forever decrease the quality of life for all of us, especially those in the west valley neighborhoods and farms. The glacial geology of the area with its kettles, moraines and fractured bed rock makes the ground water very vulnerable. Individuals, neighborhoods, organizations and Schools have been fighting to keep west valley from becoming more of an industrial area. Zoning was fought for and applied appropriately. Do not allow these rules to change. So many families and so much wildlife will be negatively affected. I could go on and on but you know an asphalt batch plant in the west valley of the Flathead Valley is NOT a good idea. Sincerely, Helen Pilling P.O. Box 8 Kila, MT

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 10:08 AM
To: Mark Mussman
Subject: FW: Proposed concrete and batch plant on Farm to Market

From: P.J. Rismon <pjrismon@gmail.com>
Sent: Thursday, May 21, 2020 10:05 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Proposed concrete and batch plant on Farm to Market



Dear Mr. Mussman,

My husband and I would like to again express our strong opposition to the creation of a concrete and batch plant near the corner of Farm to Market and Church Drive.

We live just South of the location and are very concerned about the possible negative environmental effects such as air and water pollution. Also, the increased large truck traffic would mean additional noise, dust, diesel exhaust and dangerous road conditions.

Please deny the request to allow a concrete and asphalt plant in the above-mentioned location. Thank you.

Peggy Rismon

Paul Beckley

Mark Mussman

From: Shirley Poe <shirleypeppi44@gmail.com>
Sent: Thursday, May 21, 2020 8:50 AM
To: Mark Mussman
Subject: Proposed Concrete Plant



To Mark
Mussman,

I am writing to let you and all the others know how i feel about your proposed asphalt plant in our West Valley. I have lived here 39 years across from Art Weavers place and have watched it grow. A lot of Families with Children are living here now and I have sit at the West Valley School while Children, Your Children and Your Grandchildren are being dropped off all times off day on Farm To Market Road. It is a very Busy intersection with cars and a lot of TRUCKS OF ALL SORTS. With all the new homes everywhere and more children joining our school, I think your IDEA OF ASPHALT TRUCKS running past our school scares me to death. PLEASE really think about it, is it worth a loss of a child? This is residential zoned. As for all the bad air quality, we do not need anymore. There are a lot of people with Health problems and can't handle anymore added to our air. I hope you really search your hearts and see; IS IT WHAT YOU WOULD WANT TO LIVE

IN!!!!!!!!!!!!!!!!!!!!!!

RESIDENT; Shirley
Poe

A very concerned WEST VALLEY

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 9:49 AM
To: Mark Mussman
Subject: FW: Recommendation against Asphalt Plant

From: Jeff Peterman <jbpeterman@hotmail.com>
Sent: Thursday, May 21, 2020 9:40 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Recommendation against Asphalt Plant



Flathead County Zoning / Board of Adjustment,

As a resident that lives within .5 miles of the Tutdvet Gravel pit, I highly recommend disapproval of the request to develop an industrial asphalt plant/ concrete plant on the existing site. This recommendation is based on the following facts.

1. The Lost Creek aquifer is highly susceptible to ground water contamination. This is evidenced by the current high levels of nitrates found in the aquifer, believed to be from ground level agricultural operations. The shallow Lost Creek aquifer will be significantly more susceptible to chemical contaminants discharged from an asphalt plant in the bottom of the existing gravel pit, which is located 35ft below ground level.
2. The current road infrastructure will not support the increasing truck traffic. Studies used to justify expansion of the Tutdvet pit last year indicate Church Rd is only capable of supporting 1000 truck trips per day. This limit will be exceeded with the addition of an asphalt plant. The gravel pit operations on Stillwater Rd, West Valley Dr and existing Tutdvet pit will all utilize Church Rd as their primary east/west transport corridor. Currently, the West Valley pit and Stillwater pits have approximately 200 round trip truck deliveries per day at each location. This equates to 400 truck trips from the West Valley Dr pit and 400 truck trips from the Stillwater Rd pit. When the Tutdvet pit begins using Church Rd as the principle entrance, and is expected to have 200 round trip visits per day, they will exceed the currently approved load study on Church Rd. The current study fails to account for hazardous weather conditions, large width of semi-trucks and driver error. During this past year, I have assisted two stranded motorists who were forced off the road by large trucks on Church Dr. The truck traffic has contributed to several recent vehicle accidents at the Church Rd and Farm to Market intersection. Last week one of the delivery trucks failed to navigate the corner at this intersection damaging the stop sign and losing a significant amount of gravel. Last month a concrete truck was involved in a head on accident with a motorist when the driver failed to yield to an oncoming motorist.
3. During the past five years Tutdvet pit has not been in compliance with their current DEQ permit. The permit required berms to mask the site and mature vegetation to mask the sight, sound and air pollution produced on site. The Tutdvet pit does not have berms that mask these pollutants. When compared with other gravel pits around the county, the Tutdvet pit is significantly inadequate. There has been no vegetation added to the site until they applied for the expansion permit last year. The vegetation added is not mature as required by the permit. It is all young saplings under 3 feet in height

and with minimal limb and vegetative growth. From the intersection of Farm to Market Rd and Church Drive the full pit and facility is easily observed. The current operators of this pit have not complied with the conditions of their permit and the county has failed to enforce such conditions. The failure to mask the pollutants currently generated on this site is an example of how the operator will comply with the conditions imposed by the planned asphalt permit. I watch from my house daily as clouds of dust are generated and drift north of Church Dr driven by the wind that is common place in the West Valley.

4. Studies indicate that home values drop 20-30% when an asphalt plant is built. The foul chemical odor, heavy truck traffic and the associated health issues all contribute to this loss in value. Residents living within 1-2 miles of this plant and will suffer millions of dollars in losses due to property value losses if this plant is approved. As the West Valley is zoned agricultural and residential, none of the residents could ever anticipate that the industrial manufacturing of asphalt and concrete would ever be approved by Flathead County. Local residents like myself and my family will face the financial damage and losses that will accompany the industrial expansion of this facility.

I truly hope Flathead County gives serious consideration to the damage that will result to county residents, if this asphalt plant is allowed to operate. Is it right to harm the residents of West Valley, in order to allow big business operators of this plant to create higher profits?

Sincerely

Jeff Peterman

3625 Farm to Market Rd

MAY 21 2020

Mark Mussman

From: Natalie Ten Eyck <natteneyck@yahoo.com>
Sent: Thursday, May 21, 2020 3:52 PM
To: Mark Mussman
Subject: Petition AGAINST Permits for Schellinger Asphalt/Concrete Batch Plant on Farm to Market Road



Good Afternoon Mr. Mussman -

My name is Natalie Ten Eyck. My family and I reside at 1826 Church Drive, across from the Schellinger Construction Gravel Pit on Farm-to-Market Road. I previously emailed you requesting postponement of the Board of Adjustment meeting earlier this month regarding the permits submitted by Schellinger/ Linda Tutvedt for the use of an asphalt/ concrete batch plant. Now, I am writing again to petition the issuance of permits for Schellinger as my husband and I are not able to attend the West Valley Land Use Advisory committee this evening at the fairgrounds.

We knew the existing gravel pit was near our home when we purchased it two and half years ago, and though a little dusty in the summer, we are okay with the operations of the pit as they are now. We knew this coming into this area. But our community is residential and agricultural, not industrial. There would be so many negative impacts an asphalt plant would bring to this area, below are just a few:

Smell - my neighbor had his driveway sealed over the weekend - I could smell it for hours... the smell of an asphalt plant would be nonstop. I don't wish for the chemical smell to burden the air where my family and my animals live and play. The wind blows in West Valley. A lot.

Additional traffic - I watch gravel trucks travel Church Drive and Farm-to-Market (FTM) Road on a continuous basis throughout the day. This stretch of road in particular, from the entrance of the gravel pit to the approach of the intersection of Church and FTM road is one of the only passing zones between the intersection of Reserve and FTM Road. I have seen numerous times vehicles passing at high speeds through this zone and beyond, through the intersection to get past large trucks. With the addition of more trucks, I feel It is only a matter of time before there is a fatal accident on this section of road.

As well, West Valley School is 2.5 miles south of the gravel pit. I have on several occasions followed large gravel trucks through the school zone going well above the stated school zone speed. While I realize this is an issue with specific trucking companies, the additional traffic of concrete and asphalt trucks could endanger the children of our community through the school zone.

Noise - this is self explanatory. We live in this community for a reason - to be away from the hustle and bustle.

Devaluation of property - Having a batch plant in the area is not desirable for quiet, farm living conditions and will most certainly decrease the value of our property and of those around us.

Lastly, as I understand, the original ruling in 2010 stated the prohibition of an asphalt/ concrete batch plant. The ruling should stand regardless of updated definitions of gravel pits, etc.

Please take into consideration the negative impact this permit allowance for a batch plant will have on this community and surrounding area. I realize there is a need for asphalt and concrete in our ever growing community, but not in an already, and expanding, residential area.

Thank you for your time. Please include this correspondence in public comment.

Natalie Ten Eyck

MAY 21 2020

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 7:42 AM
To: Mark Mussman
Subject: FW: Asphalt Batch Plant



-----Original Message-----

From: Linda Walthers <lzwalthers@gmail.com>
Sent: Thursday, May 21, 2020 12:44 AM
To: Mary Fisher <mFisher@flathead.mt.gov>
Subject: Asphalt Batch Plant

To West Valley Zoning and Planning Board:

'NO' ☹️ to the proposed asphalt batch plant!

Honor existing land use law.

It's not permitted under existing law.

This business and it's resultant air and soil pollutants are not advantageous to the inhabitants of not only West Valley but of the entire Flathead Valley. This was the subject of consideration when the Land Use of 'said area' was established years ago.

You have a moral obligation to your neighbors in protecting the quality of life. The problem is not restricted to West Valley. (Think: 'Ripple Effect'). Think about which way the wind blows and water flows.

It is unacceptable for any public servant to act in any capacity other than to that which he was elected.

'Public Servant' means just that!

To represent the people who pay taxes and ultimately, their salary.

Don't waste taxpayers' time and money with a law suit. The rules are already in place. Just enforce them. Plain and Simple.

Linda Walthers, Down Wind (Bigfork), MT

Sent from my iPhone 🌸LW

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 7:41 AM
To: Mark Mussman
Subject: FW: Tutvedt Gravel Pit Use Permit Request



From: jrtbme . <van040451@gmail.com>
Sent: Wednesday, May 20, 2020 11:40 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>; KVA <tvakva@earthlink.net>
Subject: Tutvedt Gravel Pit Use Permit Request

From: Todd and Katie Van Alstyne
2665 Farm To Market Rd.
Kalispell, MT 59901

To: Mark Mussman
Flathead County Planning and Zoning

May 20, 2020

Dear Sir:

It has come to our attention that an approved modification of the existing permit at the Tutvedt Gravel Pit requested by Schellinger Construction would allow the industrial operation of an asphalt and concrete mix installation at that site. A modification of the current permit for such use at that site is a direct violation of the 2010 agreement to limit use of that pit to gravel operations, and we oppose the proposed use permit modification for several reasons:

1. Noise pollution would greatly increase. Having had personal experience working for an asphalt operation, both at the plant and on paving construction jobs, I am well aware of the noise level from rock crushers, conveyer belts, heavy equipment, and kiln operations. At present, we can hear crushing operations from the existing gravel operation, but that noise level would drastically increase with the addition of cement and paving plant operations.
2. West Valley air quality would be adversely affected by increased industrial activity at the pit site, which could create health issues, as well as limit the visibility of scenic mountain beauty for West Valley residents.
3. Additional heavy truck traffic would increase both noise levels and safety hazards along Farm To Market Rd., which includes roadway intersections, private property driveways, and both entrance and exit access for the West Valley School.
4. Reduced property values for West Valley home owners would create a hardship for residents, and reduce the county tax base because of the combined negative effects listed above.

West Valley homeowners have a legitimate right to expect the continuation of the 2010 working agreement that limits industrial expansion. Like many West Valley homeowners, we have made a large investment in

improving our property. Industrializing the Tutvedt Gravel Pit to include concrete and asphalt operations will adversely affect the quality of life for all West Valley families. For all the reasons mentioned, we strongly oppose the permit modification request. Let's maintain the desirable character of West Valley as a primary residential area with limited industrial expansion.

Sincerely

Todd and Katie Van Alstyne

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 7:41 AM
To: Mark Mussman
Subject: FW: Vote NO on asphalt plant in residential areas--it stinks!



From: Kathy <mikekathyb@cyberport.net>
Sent: Wednesday, May 20, 2020 9:48 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>; Mary Fisher <mFisher@flathead.mt.gov>
Subject: Vote NO on asphalt plant in residential areas--it stinks!

“Asphalt and batch plant operations are prohibited.” This proposal is not calling for “modification” of that explicit prohibition. It is rendering it null and void. What changes in conditions warrant reversal? NONE! This a residential area and asphalt and concrete plants DO NOT BELONG in residential areas!

Finding #14: "It is there is a potential for impacts to surrounding property due to the odor associated with batching asphalt." Foul odors have a huge impact on the surrounding community, yet this admission is buried deep in a poorly written paragraph late in the document presented by the Planning and Zoning office. It is dismissed as inconsequential. This is craziness! Foul odors can seriously reduce a community's quality of life and property values.

The Conditional Use Permit Report has the information in it to make a denial obvious, yet it is approved? If this “modification” to allow asphalt and concrete operations goes through, I consider it a perversion of justice, and yet another board decision that makes me wonder how and why these obviously ill-advised decisions are occurring.

Kathryn M. Britton

Flathead County Planning Board
Attn: Mark Mussman

West Valley Land Use Advisory Committee



All,

As residents of the West Valley in Flathead County who have lived on Church Drive since 1992, we can only lament the heavy industrial traffic that has been a constant since the Tutvedt gravel pit opened in 2005.

It saddens us greatly to see the continuous parade of gravel trucks that haul to and fro past our home six days a week. We find ourselves not only sandwiched between these trucks as we head in either direction on Church Drive, but also fearing one will cross the yellow line at either of the 90-degree turns on our road or roll through the stop sign at the intersection of Church Drive and Stillwater Road. We also must thread the needle over the bridge with oncoming trucks crossing the Stillwater River.

The rural country road we fell in love with and decided to build our family home on 30 years ago is no longer safe to walk a dog or go for a jog, ride a bike or take your child out to help them on their training wheels.

We are constantly reminded of the neighboring gravel pit operations not only by the nonstop gravel truck traffic but by the noise of gravel crushing, even inside our house.

The proposal by Schellinger Construction/Linda Tutvedt to amend a finalized permit for a gravel pit on the Section 16 Limited Family Partnership/Linda Tutvedt property for an asphalt and/or concrete batch plant defies and violates previous Flathead County District Court decisions.

- We are concerned about our property values plunging.
- We are concerned about our well water being contaminated.
- We are concerned about our future enjoyment of our home and neighborhood.

We have been actively involved with the objection of the Citizens for Quality Growth since 2005 to such potential abuse of our property rights and our right to a healthy environment. The Montana Supreme Court established in 2008 that the West Valley Neighborhood plan area was a residential zone and that the BOA could legally deny asphalt batch plants.

We insist our voices be heard once again – and this should never have been necessary – to clearly affirm we are firmly opposed to permitting an asphalt or a concrete batch plant on the Section 16 Limited Family Partnership/Linda Tutvedt.

Potential water aquifer pollution, significant air pollution consisting of toxic, carcinogenic, foul smelling chemical compounds inside and outside our home, substantially more industrial truck traffic, noise pollution ... West Valley has been deemed a non-industrial agricultural /residential area. No one has the right to override the established classification.

The decision to **prohibit** an asphalt/concrete batch plant on said property was approved in 2010 by Flathead County District Court between the Tutvedt Family Partnership and Flathead County.

No is No.

Thank you for your attention,
Carol and Jim Marino
1555 Church Drive
Kalispell, MT 59901

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 7:41 AM
To: Mark Mussman
Subject: FW: Proposed asphalt batch plant on Farm to Market Road



From: Lynne Brett <dc4life99@hotmail.com>
Sent: Wednesday, May 20, 2020 8:15 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>; Mary Fisher <mFisher@flathead.mt.gov>
Subject: Proposed asphalt batch plant on Farm to Market Road

My name is Lynne C Brett and I live at 1195 Bald Rock Road, approximately a mile and a half from the Tutvedt gravel pit on Farm to Market road. I am adamantly opposed to modifying the current conditional use permit to allow for asphalt batch plant operations at the current gravel pit operation on Farm to Market road. Industrial use of the West Valley property is incompatible with residential use and the West Valley Neighborhood plan guidelines.

I bought my home here in 2013 and have poured my life savings and time into improving this investment. I understood when I bought my property that the gravel pit had only been given permission for gravel extraction. Under a 2005 Board of Adjustment decision and a Flathead County District Court order in 2010, the Tutvedt Family Partnership struck a deal with Flathead County agreeing to the condition that their gravel pit could not and would not have an asphalt batch plant. A deal is a deal. The county should uphold this court approved deal and deny this permit.

I also felt protected by the West Valley Neighborhood plan and the restrictions it places on industrial zoning, and felt that this was a place where it would be healthy and safe to live.

Allowing asphalt batch operations with the fumes it generates to take place in this residential neighborhood will decrease the quality of our lives and decrease our property value.

The toxic fumes generated by asphalt are known to cause numerous detrimental health effects, including cancer. According to the Federal Occupational Safety and Health Administration, exposure to asphalt fumes can cause headaches, skin rashes, fatigue, reduced appetite, throat and eye irritation, and coughing and ***asphalt fumes are considered potential occupational carcinogens***. Asphalt paving workers, for example, have reported breathing problems, asthma, bronchitis, and skin irritation, according to OSHA, and studies have reported lung, stomach, and skin cancers following chronic exposures to asphalt fumes. (source: <http://www.osha.gov/SLTC/asphaltfumes/index.html>)

Asphalt fumes will carry for miles around and cannot be stopped by berms or vegetation. In your own findings of fact, #14, you state "there is potential for impacts to surrounding property due to the odor associated with batching asphalt." There is no way to mitigate for these harmful impacts and that alone should be sufficient reason to turn down the Tutvedt Family Trust's request.

Other impacts such as increased traffic should also be considered as detrimental to rural residential living. 75 to 100 additional trips per day would not be noticeable if they were cars, but that many trucks hauling asphalt will be a very significant and detrimental impact to the people living and traveling along these roads.

I implore you to protect our quality of life and our investments and turn down the request to add asphalt batching to the uses permitted at the gravel pit on Farm to Market road.

Thank you.
Lynne Brett

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 7:40 AM
To: Mark Mussman
Subject: FW: Asphalt/concrete plant at Church Drive



From: Linda Sedon <lsedonmt@hotmail.com>
Sent: Wednesday, May 20, 2020 7:13 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt/concrete plant at Church Drive

We OPPOSE this proposal to start an asphalt plant on Church drive. We enjoy our country living and already have to listen to the noise from the gravel pit on West Valley Drive. We don't want to smell the strong fumes from an asphalt plant.

Ken and Linda Sedon
240 West Valley Drive

Sent from my Galaxy Tab® E

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 7:40 AM
To: Mark Mussman
Subject: FW: WVLUAC Tutvedt/Schellinger Asphalt plant request-West Valley



From: jeaolson@cyberport.net <jeaolson@cyberport.net>
Sent: Wednesday, May 20, 2020 4:15 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: WVLUAC Tutvedt/Schellinger Asphalt plant request-West Valley

We spent many hours working on the West Valley Neighborhood Plan, the intent of which was to preserve West Valley as a rural residential, agricultural, and forestry area. Industrial and large commercial uses were forbidden or strongly discouraged. In the years since, many more homes have been built in West Valley. To say that the value of these homes, especially the ones closest to the gravel pit, would not be impacted by the addition of an asphalt batch plant with its additional traffic, noise, and odor is ridiculous. Especially if one considers the proposed hours of operation approved by the planning office, 7-7 on weekdays and 7-2 on Saturdays. Asphalt plants simply don't belong in rural residential neighborhoods, as clearly stated by the Montana Supreme Court in 2008.

Moreover the risk of contamination of the shallow aquifer underlying this area is simply too great to be allowed. Accidents happen, and accidental spillage of asphalt is very likely at a batch plant. The area is almost solid gravel which is extremely permeable so the aquifer on which a number of families depend for their water could easily be contaminated. Possibly the deeper aquifer could also be contaminated. Water is our most precious resource, and needs always to be protected.

Part of the reasoning for approval of adding an asphalt plant to this gravel pit, appears to be that "there are other gravel extraction operations in close proximity that have been permitted to include batch plants". By that reasoning the next time a large industrial plant or another gravel operation wants to add a batch plant in West Valley, it should be even easier for them to do so. Is the Flathead Valley so short of asphalt that development is being impeded and that we are in desperate need of allowing asphalt plants everywhere, even where they were specifically prohibited? We don't think that is the case.

Thank you.

Sincerely

Dan and Jeanne Olson
160 West Valley Acres
Kalispell, MT 59901

Mark Mussman

From: Mary Fisher
Sent: Thursday, May 21, 2020 7:40 AM
To: Mark Mussman
Subject: FW: Say "No" to west valley batch plant.

-----Original Message-----

From: james wood <jwbastone@gmail.com>
Sent: Wednesday, May 20, 2020 5:05 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Say "No" to west valley batch plant.



We live off of Lost Creek Drive and are totally against this happening to West Valley. All the truck on the road will be an accident waiting to happen. There are already to many truck out here for the road conditions. The noise level, smell of this plant would ruin living out here. We have been here for 20 years and it would be devastating to this community. They already tried this in 2010 and legal issues already exist that they were not legally to build this Batch Plant. Why they think they can by pass there legal agreement is ludicrous. So our vote is NO to the batch plant.
Thank you

Sent from my iPhone

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 4:24 PM
To: Mark Mussman
Subject: FW: Zone the flathead



From: martin fulsaas <martinluminare@yahoo.com>
Sent: Wednesday, May 20, 2020 4:20 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Zone the flathead

Stop the Industrial expansion in the West Valley area , they should not be allowed in residential areas . This county needs some zoning otherwise conflicts like this will go on for years , with much wasted time and expense for lawyers and courts .

Industrial use should be carefully planned not added by personal interest as one family or company.

Martin Fulsaas

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 4:01 PM
To: Mark Mussman
Subject: FW: Conditional Use Report #FCU-20-04

-----Original Message-----

From: woody <bronco60@comcast.net>
Sent: Wednesday, May 20, 2020 3:59 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Conditional Use Report #FCU-20-04



Dear West Valley Land Use Advisory Committee and Flathead County Board of Adjustment,

The recommended approval of FCU-20-04 by Flathead County Planning and Zoning is inappropriate and not supported by an analysis of the law or the facts.

The original request for CUP was properly denied because it constituted a substantial change to a previously approved CUP. The passage of time, the changing of the composition of the staff over the years and the contorted effort to redefine gravel extraction do not alter the meaning of "no". That Planning and Zoning felt no need to seek Agency input because only one change to the CUP was requested - despite the significance of the change - is irresponsible.

This situation is an illustration of the County's failure to conduct planning and zoning in an orderly manner and, instead, approving anything any landowner wants. You want a subdivision in the middle of farmland? Approved. You want asphalt production at a nearby gravel pit? Approved. You want chaos, sprawl, the stretching of government services and infrastructure? Flathead County is the poster child.

This conditional use request deserves denial.

Respectfully,
Woody Nedom

Date: May 20, 2020

To: Mark Mussman, Flathead County Planning and Zoning

From: Jim and Kathy Kolaflathead

158 West Valley Acres

Kalispell, MT 59901



Dear Mr. Mussman and Flathead County Planning and Zoning Board:

We have lived in West Valley since 1990. We bought land here to build our home and escape city life. We love to sit outdoors and enjoy the views, watch our garden grow and be free of pollution and excess noise.

We were never in favor of a gravel pit established in 2010 by Schellinger Construction on the Tutvedt property. Now the Conditional Use Permit for a gravel pit has come before your board to be modified for a business of an asphalt and concrete batch plant. We are **strongly opposed** to the requested change in the Conditional Use Permit for the following reasons:

1. Water pollution in the shallow aquifer of West Valley.
2. Increased vehicle traffic: Mainly large trucks.
3. West Valley was originally zoned for family homes and business of an agricultural nature. **Not concrete and asphalt batch plants.**
4. Dust and Noise.
5. Change the entire character of the West Valley zoning.
6. Opens the door for the same kind of plants at the other gravel pits in the area like the one on property north of Church Drive on West Valley Drive.
7. Question: By definition: A gravel pit is an open-pit mine for gravel extraction. **How, When and by Who was the definition of gravel extraction changed to include concrete and asphalt batch plants?** This has happened since the 2010 agreement. We understand the definition of gravel extraction, but the change in definition needs to be explained and should not be retroactive to the 2010 agreement.

Do not change or modify the original Conditional Use Permit.

Sincerely,

Jim and Kathy Kola

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 4:01 PM
To: Mark Mussman
Subject: FW: Mark mussman

-----Original Message-----

From: Kellie Johnson <justtkel@yahoo.com>
Sent: Wednesday, May 20, 2020 3:58 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Mark mussman

No to the asphalt and/or concrete batch plant - absolutely NO.

Sent from my iPhone



Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 3:52 PM
To: Mark Mussman
Subject: FW: Mark Mussman



-----Original Message-----

From: Jamie Biscan <jamie.biscan@yahoo.com>
Sent: Wednesday, May 20, 2020 3:49 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Mark Mussman

I am saying NO to the asphalt and/or concrete bath plant at church drive and farm to martlet road.

I am not ok with the plant decreasing my property value. I am not ok with the traffic it will cause and possible accident that will come from it. I will not be alright with the noise this plant will cause. I say NO to the plant and whatever it brings.

Where it will be located is in a residential area. You do not have permission from myself, located on lost creek drive, to build this plant.

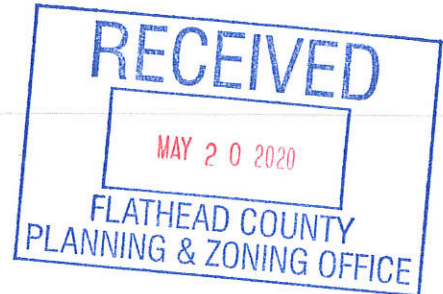
I will do all I can, as will my neighbors, to see that this plant will not happen.

Best regards,
Jamie Hadley

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 3:02 PM
To: Mark Mussman
Subject: FW: asphalt plant proposal

From: Bob & Lori <bob_lori@montanasky.net>
Sent: Wednesday, May 20, 2020 2:46 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: asphalt plant proposal



May 20, 2020

To Mark Mussman

We are quite flummoxed about this proposed asphalt plant on the corner of Church and Farm to Market Road. This is a *residential* area with nice homes and more being built here every day. There are many other industrial areas far better suited for this purpose in this valley.

There will be much more truck traffic, awful odors that are unhealthy and noise, just about 2 miles from a very good school. If you lived here, you too would be in opposition of this proposal.

Please please turn this down!!

Sincerely,

Robert and Lori Safford

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 2:26 PM
To: Mark Mussman
Subject: FW: West valley batch plant



From: Cary Hofstad <cary.jo.hofstad@gmail.com>
Sent: Wednesday, May 20, 2020 2:25 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West valley batch plant

I live on Gracie Lane, south of the proposed plant. I am against changing the regs to allow this. We in West Valley already allowed the change from Tudtvedts for their gravel pit resulting in many dump trucks using Farm to Market and driving in most instances very fast. I have lived in this house for 25 years and used to be able to ride my bike on FtoM and do a loop up to Church and back on West Valley. No longer is that even remotely safe with no shoulder and the increase in truck traffic.

Please limit the use of that land to the gravel pit. West Valley is a great, quiet place to live and we have already granted the one exception.

--

Take care,

Cary Hofstad
406.261.2758

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 2:16 PM
To: Mark Mussman
Subject: FW: comment for 5/21/20 West Valley Land Use Advisory Committee meeting

-----Original Message-----

From: dblank1@cyberport.net <dblank1@cyberport.net>
Sent: Wednesday, May 20, 2020 2:08 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: comment for 5/21/20 West Valley Land Use Advisory Committee meeting



Dear West Valley Land Use Advisory Committee,

Please stand up for the residents of the West Valley and all of Flathead Valley and deny the application for an Asphalt Batch Plant and keep in place the court agreement about the CUP.

Asphalt Batch Plants do not belong in residential neighborhoods. The fumes endanger health, the noise reduces quality of life and property values, the plants endanger the groundwater, and they are ugly, too.

Please demonstrate to everyone who owns a house in Flathead Valley, that they can feel confident investing their heart and money in a home, and not have their residential neighborhood disrupted by surprise disruptive industrial uses.

D. L. Blank
PO Box 953
Whitefish, MT

To: Mark Mussman, Flathead County Planning and Zoning

From: Edward and Barbara Myers
180 West Valley Acres
Kalispell, Montana

Date: May 20, 2020



Dear Mr. Mussman and Flathead County Planning and Zoning Board:

We have lived in **RESIDENTIAL** West Valley since 1992 when we built our home to live out our retirement years. We have enjoyed living in this quiet, clean and friendly area, and have raised a garden and worked hard to improve our property. We were very disappointed when the gravel pit began operation a number of years ago, and noticed a significant increase in traffic on Farm to Market Road, noise from gravel extraction, and increased dust in our home.

We are very dismayed to learn of the Section 16 Family Limited Partnership and Schellinger Construction plans to construct an asphalt and/or concrete batch plant at the site of the Tutvedt gravel pit. We are **strongly opposed** to this request to modify the Conditional Use Permit to allow this construction. We are disappointed and angry that the pit owners are going back on the agreement they made in 2010 to give up on the right to a batch plant proposal.

The character of West Valley will be significantly changed if this is approved and we begin to allow industrial operations here. Children attending West Valley School will have to deal with more noise and traffic as they are learning, and residents of this area will experience more pollution in our skies, dust in our homes, and unwanted noise from trucks and extraction and processing work. The berms around the pit do not keep the noise of the operation from being heard at our home to the south. This will do nothing but increase with the existence of a batch plant. Our home values will likely decrease (as will county tax revenue from property tax) if there is a batch plant within sight, sound and smelling distance of our residential neighborhoods.

Please do not allow this request to modify the current existing use permit. Protect this residential area from becoming industrial.

May 20, 2020



Linda Tutvedt
Section 16 Family Limited Partnership
2335 West Valley Drive
Kalispell, Montana 59901

Dear Linda and Tutvedt Family Partnership:

We are writing to request that you reconsider and drop your appeal to the Flathead County Planning and Zoning Board to modify your previous agreement with your neighbors in West Valley to refrain from building an asphalt/batch plant on the site of your gravel pit.

We have lived in West Valley since 1992 and have noticed a significant increase in traffic, noise and dust from the gravel extraction operation since its opening. We are very concerned that a batch plant will make it unbearable. Having grown up on the South Side of Chicago near an asphalt/concrete batch plant, I can tell you that the smell, noise and traffic were awful. Please do not attempt to do this to our residential neighborhood in West Valley.

We live a few miles south of your gravel pit and just off of Farm to Market road. I can tell you from experience that the berms around the pit do not keep the noise of extraction and roaring truck motors from our neighborhood. I cannot imagine what it is like for home-owners who have newly built homes close to your pit. What it will be like with an asphalt batch plant on your pit premises is unimaginable.

Please consider your neighbors with homes very close to your gravel pit property, and drop your plans for a plant here.

Thanks for considering our concerns,

Barbara and Ed Myers
180 West Valley Acres
Kalispell, Montana 59901

Mark Mussman

From: Angela Phillips
Sent: Wednesday, May 20, 2020 12:00 PM
To: Mark Mussman
Subject: FW: Tutvedt asphalt batch operation

From: Keith Blaylock <kblay211@gmail.com>
Sent: Wednesday, May 20, 2020 11:59 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Tutvedt asphalt batch operation

To: West Valley Land Use Advisory Committee,

Dear Committee Members, Please consider the following:

Asphalt Plants do not belong in a residential neighborhood.

Negative impacts to home-owner property values are unacceptable.

The Montana Supreme Court found (and ruled), the West Valley District is residential.

Most importantly, home owners and property owners have invested in adjacent properties based on previously agreed to property use decisions in the 2005 Board of Adjustment Decision and the Flathead County District court order of 2010 when the Tutvedt Family Partnership struck a deal with Flathead County agreeing to the condition that their gravel pit would not, could not, have an asphalt batch plant.

Making a diametrically opposed change to this previous stipulation is fraught with unfairness (to home owners), and reeks of illegal land use manipulation on the side of wealthier landowners and Flathead County Commissioners. No tax paying landowner should have this type of zoning and property use trickery foisted upon them and their families years after those zone decisions were made and sealed for the future.

Please do NOT push area landowners off the proverbial cliff by allowing this corruption to continue.

Thank you for your time and consideration of this important matter.

Keith Blaylock

Ps A deal IS a deal after all.



Mark Mussman

From: Angela Phillips
Sent: Wednesday, May 20, 2020 11:58 AM
To: Mark Mussman
Subject: FW: Asphalt in my neighborhood

-----Original Message-----

From: Jennifer Schaffner <jschaffner.lcsw@gmail.com>
Sent: Wednesday, May 20, 2020 11:57 AM
To: Mary Fisher <mFisher@flathead.mt.gov>
Cc: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt in my neighborhood



Hello.

I am against having an asphalt batch in my neighborhood. I live off of Church Drive. Five years ago I bought my home in a country neighborhood that allowed great views and neighbors at the same time. Since then I have fixed up my home and property to fit my needs. I work in Kalispell and am always driving behind a dump truck as I drive down Church or Farm to Market roads. I have a history of migraines and lung issues. If I am ever behind a truck with asphalt, I must pull over or pass it as it brings my headaches on.

I moved here from town to avoid health issues that I was experiencing at my previous location. Please do not help put an asphalt plant in my neighborhood. My health will be compromised, the value of my home will decrease, my well water could be affected and our quiet neighborhood will never be the same.

Respectfully,

Jennifer Schaffner
1195 Bald Rock Road
Kalispell
406-471-3396

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 11:41 AM
To: Mark Mussman
Subject: FW: Residential areas vs Industrial areas

-----Original Message-----

From: Kristy Vollertsen <klvollertsen@gmail.com>
Sent: Wednesday, May 20, 2020 11:31 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Residential areas vs Industrial areas



To Whom it May Concern,

With proper land use planning and approval to honor our current landscape, identifying - residential, commercial, agricultural & industrial areas (regardless of their current zoning) would help minimize the constant conflict and litigation our citizens and private interests are having. Nothing is zoned so this constant battle will continue. Our valley is growing but honoring the majority of the citizens and their largest investment (their homes) should be a priority over the next money-making private business plan. Money should never be valued more than the people. Quality of life should matter most.

Areas such as where our county landfill is located would be a better location for industrial services, as it's not likely to be relocated, and citizens are aware of what's developed in that location. In summary, I support the citizens of West Valley to prohibit asphalt batch plants in residential areas. Their quality of life matters more than special interest having financial gain.

Sincerely,

Kristy Vollertsen

Mark Mussman

From: Engebritson, Vern <Vern.Engebritson@weyerhaeuser.com>
Sent: Wednesday, May 20, 2020 10:12 AM
To: Mark Mussman
Subject: FW: Gravel pit



From: Engebritson, Vern
Sent: Wednesday, May 20, 2020 10:10 AM
To: planning.zoning@flathead.mt.gov
Subject: Gravel pit

I would like to express my concerns on the proposed Asphalt and concrete plant in the West Valley. In the past it was not allowed due to the master plan so why is allowed now? If the master plan was changed when was it done? Why wasn't the community informed of the change. Please don't tell me that you are relying on people to watch the legal notices in the paper, as in this day and age very few people even get the paper. I would also like to know why the land to the west of the existing pit was denied a permit to extract gravel due to environmental reasons, I believe it had something to do with the lost creek fan. Last year when the owners notified us that they would be expanding to a different section of the property and reclaiming the existing pit it was stated that they were a shallow mine due to the environmental issues. What has changed in the last year that would make it acceptable to have a large industrial process with many different sources of potential contamination? My property is to the north of the pit and we hear the operations and experience some of the dust from the operations on our property. How will they control the odor of the asphalt and concrete operations. The truck traffic for this operation will definitely increase. They will need to import the chemicals and ingredients to produce the different products they will sell as well as haul off the finished product to its final destination. How will the roads handle the increased traffic? Generally during the peak summer months of construction the contractors will start early to beat the heat of the day and give themselves a better shot at producing a good concrete pour. Will the plant want to start operating longer hours? Early mornings and late night sounds and smells are not going to be very welcome to the surrounding people. How will the owners of this operation mitigate the loss of property values due to this load and odorous unsightly process? There are many more questions that need to be answered before this should be approved these are but a few that need to have definite answers right away.

Vern Engebritson
Hydraulic Technician
Medium Density Fiberboard
105 Mills Drive
Columbia Falls MT
406-250-9738

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 9:17 AM
To: Mark Mussman
Subject: FW: June, 2, 2020 Meeting; Flathead Cty Board of Adjustment



From: lazycpa@aol.com <lazycpa@aol.com>
Sent: Wednesday, May 20, 2020 9:14 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>; Mary Fisher <mFisher@flathead.mt.gov>
Subject: June, 2, 2020 Meeting; Flathead Cty Board of Adjustment

Dear Commissioners,

Please find the courage to do the right thing. it is the right thing to do and the only thing that matters to the grandchildren. Good luck. it will be needed.

Here are a few of the regulations that are the code. Please find the courage to utilize them.

2.06.090 Burden of Proof.

The burden of proof for satisfying the aforementioned criteria shall rest with the applicant and not the Board of Adjustment. The granting of a Conditional Use Permit is a matter of grace, resting in the discretion of the Board of Adjustment and a refusal is not the denial of a right, conditional or otherwise.

2.06.100 Board of Adjustment Decision Based on Findings.

Every decision of the Board of Adjustment pertaining to the granting, denial, or amendment of a request for a Conditional Use Permit shall be based upon "Findings of Fact", and every Finding of Fact shall be supported in the records of its proceedings. The conditions in Section 2.06.080 as they relate to matters, which the Board of Adjustment is empowered to review under these regulations, shall be construed as a limitation on the power of the Board of Adjustment to act in the matter of issuance of Conditional Use Permits. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these regulations.

How come a Supreme Court reaffirmation in 2010 of an agreement is insufficient to uphold the existing status quo? Why - because there is \$\$ involved. That is why.

Thank you.

Stuart Halpern

[Lazycpa@aol.com](mailto:lazycpa@aol.com)

Whitefish, MT 59937

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 10:25 AM
To: Mark Mussman
Subject: FW: Schellinger Asphalt Plant



From: Andora Tutvedt <andora.tutvedt@gmail.com>
Sent: Wednesday, May 20, 2020 10:22 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger Asphalt Plant

I was born and raised in West Valley and I support asphalt production at Schellinger asphalt plant at 3427 Farm to Market Road

Andora Tutvedt, 2335 West Valley Dr

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 8:54 AM
To: Mark Mussman
Subject: FW: Opposed Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

From: Max Hinrichs <madmax1@mtintouch.net>
Sent: Wednesday, May 20, 2020 8:53 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Opposed Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT



May 20, 2020

To: Mark Mussman and Flathead Planning Board,

I am a residential home property owner at 1850 Church Drive Kalispell, MT. I am in opposition of the proposed Schellinger Construction Company "Section 16 family Partnership" concrete/asphalt plant that is requesting change of its current gravel pit operation. A concrete/asphalt plant is an entirely different operation than the gravel pit that is currently operating. The air pollution created by an expansion to a concrete/asphalt plant operation is very toxic. It can affect air and area water quality. There would also be added excessive noise and truck traffic on Farm to Market Road in the residential property owners' area of the West Valley and the nearby West Valley Public School area. This type of operation would also severely harm property values of West Valley area due to this expanded operation. Residential subdivisions are directly next to this proposed concrete/asphalt location.

Please do not allow this toxic industrial operation to be allowed in this zoned rural residential and agriculture area.

Thank You,
Respectfully,

Max F. Hinrichs
Residential home property owner
1850 Church Drive
Kalispell, MT 59501

Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 8:53 AM
To: Mark Mussman
Subject: FW: Asphalt Plant on Church Drive



From: Laura White <LWhite@dadco.com>
Sent: Wednesday, May 20, 2020 8:48 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt Plant on Church Drive

I live at 4500 Farm to Market Drive and my family has lived in West Valley since the 1970s. One gravel pit went in next to my in laws home on Stillwater and that has expanded. We travel Church Drive and now it's a truck highway as trucks travel to gravel pits. We lived in Country Estates and the Asphalt Plant on Stillwater sent fumes over Country Estates and it's one of the reasons we moved. It smelled terrible. We also remember the young girl who was killed by a gravel truck on the corner of Stillwater and West Reserve. My daughter travels these roads to school and don't want any more truck traffic than there already is on Church, Stillwater and Farm to Market Road.

My husband and his siblings grew up with Tutvedts and we love them like family. This isn't about them but the impacts all of the neighbors in West Valley have endured by changing the rules. If the planning board constantly changes a rule here and then issues a conditional permit here, it erodes our lifestyle and reason we live here. Stop it. Stop changing the rules. There is planning for a reason and you're decisions have already changed West Valley and for the families who call it home. Have you lived next to asphalt plant? It smells and it dirties the air. So please do not approve another gravel pit and asphalt plant. Keep the planning in place and keep our air, roads and lifestyle in place.

Call me if you would like to discuss this. My cell is 885-3733. Thank you,

Laura

LAURA ASHLEY WHITE, CWS® | Associate Financial Advisor
WHITEPEAK WEALTH MANAGEMENT
lwhite@dadco.com | 406.752.6212
D.A. Davison & Co. | 176 Timberwolf Parkway | PO Box 128 | Kalispell, MT 59903



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WEALTH MANAGEMENT**

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Mark Mussman

From: Mary Fisher
Sent: Wednesday, May 20, 2020 7:37 AM
To: Mark Mussman
Subject: FW: Contact Message



From: Elaine Nelson <enelson@flathead.mt.gov>
Sent: Wednesday, May 20, 2020 7:37 AM
To: Mary Fisher <mFisher@flathead.mt.gov>
Subject: FW: Contact Message

Mary,

Is this a Board of Adjustment item? Or a zone change request?

E. ☺

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Wednesday, May 20, 2020 6:45 AM
To: CO Contact Us <cocontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	mike scott
Email:	mkowoby@yahoo.com
Subject:	Tutdvedt Asphalt Plant
Message:	I want you to vote against any expansion of use of the Tutvedt property for utilization for an asphalt plant. This area is zoned residential and will diminish property values and impose health issues for adjacent homeowners. Thank you,

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 9:53 AM
To: Mark Mussman
Subject: FW: West Valley Batch Plant



From: GIL & SUSAN <blumoon89@msn.com>
Sent: Tuesday, May 19, 2020 9:49 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley Batch Plant

Please DENY the application for the Batch Plant in West Valley. The application was denied years ago and the same reason exists today. Quit turning our residential areas into massive industrial complexes. Follow the Will Of The People instead of the Dollar.

Gil Conrad

Kalispell, Mt.

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 9:44 AM
To: Mark Mussman
Subject: FW: Schellinger Construction permit



-----Original Message-----

From: Holly Larson <hollymontana2012@icloud.com>
Sent: Tuesday, May 19, 2020 9:43 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger Construction permit

Yes I am in support of Schellinger Construction Permit, Section 16 Asphalt Plant 2020.

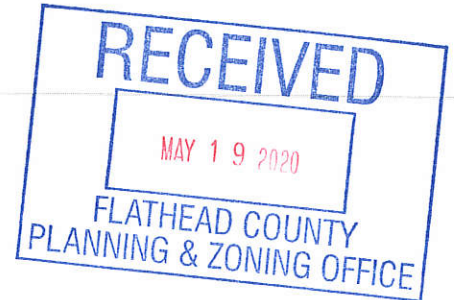
My best,

Holly J.Larson
852-5 th Avenue WN
Kalispell

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 9:22 AM
To: Mark Mussman
Subject: FW: AGAINST proposed West Valley concrete/asphalt plant

From: stephen Haas <powdermt@hotmail.com>
Sent: Tuesday, May 19, 2020 9:16 AM
To: Mary Fisher <mFisher@flathead.mt.gov>
Subject: AGAINST proposed West Valley concrete/asphalt plant



Flathead County Planning Board,

I am writing this in opposition to the proposed West Valley concrete/asphalt plant.

This property has previously agreed to only be a gravel pit. When that deal was agreed to they gave up the right to operate an asphalt plant in a RESIDENTIAL AREA!!!! The owners made a legal agreement, they know that they are breaking it. (MT Eleventh District Court FINAL Judgement, Cause No. DV-08-985B. Nov, 2010).

This plant will clearly have a negative impact on property values, air quality, and noise, let alone the increase of traffic on Church drive which is already out of control with LHC sending hundreds of fully loaded dump trailers down it everyday. Now you want to add at least another hundred + every single day?

As well, the landscaping that has been done to block the area is a joke. The "trees" are a foot tall, and Linda planted some bushes that are 2 feet tall. I can hardly even see it anymore!!!! (note sarcasm).

Clearly a good friend of the Tutvedt's was hired to do that "report", can we have an independent person do the next one?

I will be in attendance at this meeting to very loudly voice my opposition to this completely illegal project.

Sincerely,

Steve Haas

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 1:27 PM
To: Mark Mussman
Subject: FW: support for the gravel pit/asphalt plant project on Farm to Market Road



-----Original Message-----

From: Bill Hedstrom <hedstromdairy@yahoo.com>
Sent: Tuesday, May 19, 2020 12:43 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: support for the gravel pit/asphalt plant project on Farm to Market Road

As former county commissioner, I have seen the "not in my backyard" syndrome in action. Before everyone knows the facts, they sign petitions on hear say and bias.

The county gravel pit and asphalt plant is surrounded by houses as is the LHC operation. I see no reason the Tutvedt pit should be discriminated against. The Tutvedt family have been stewards of the land in the Flathead Valley for nearly one hundred years.

Land owners should have the right to use their land according to the law to benefit themselves and the community as they see fit.

Sincerely , Bill Hedstrom

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 1:26 PM
To: Mark Mussman
Subject: FW: I support the Schellinger Asphalt Plant

From: Valerie Gravage <valgravage@gmail.com>
Sent: Tuesday, May 19, 2020 12:02 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: I support the Schellinger Asphalt Plant



Hello -

I am writing to express my support for the modification of conditional use permit to allow Schellinger construction to begin operating an asphalt plant in their existing gravel operation located on Farm to Market Road.

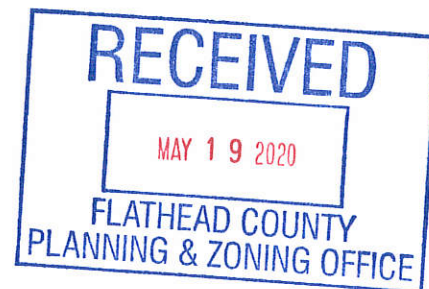
Roads will be built, to reduce the environmental impact of that construction we need to source materials as close as possible to the job site, reducing the number of trucks on the road and the miles they travel.

Sincerely,

Valerie Gravage - West Vally Land Owner

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 8:56 AM
To: Mark Mussman
Subject: FW: FCU-20-04



From: Christy Smith <christysmith224@gmail.com>
Sent: Tuesday, May 19, 2020 8:46 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04

FCU- 20-04 A request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. The property contains approximately 160 acres and can be described as the northwest quarter of Section 16, Township 29 North, Range 22 West, P.M.M. Flathead County, Montana.

A deal's a deal. In November 2010, after five years of litigation, the landowners made an agreement with their West Valley neighbors – they would give up the right to an asphalt operation and in exchange would be allowed to operate a gravel pit with extraction and crushing. **Period.** They should honor and abide by the deal and LEGAL AGREEMENT they made. (MT Eleventh District Court Final Judgment, Cause No. DV-08-985B. Nov, 2010)

***DECREASED PROPERTY VALUES...I believe that allowing an asphalt and/or concrete batch plant will impact property values and property rights. If so, then the amendment would go against the Flathead County Zoning Regulations (FCZR) 2.06.080 and 2.06.090 that states Applicant (Schellinger for Sec16 Family Ltd Partnership) must show that there will be "no detriment to the neighborhood..."**

***TRAFFIC ... The report estimates 75-100 more trucks per day on Farm To Market and Church. On what facts do they base this? Have they included extra trucks for sand and oil? (Finding 11-12)**

***NOISE. The winds blow strong and wide in the WV. The existing berms are inadequate to mitigate impact to nearby property owners. Noise is a NEGATIVE impact.()Finding 13**

***ODOR... I think that the odors and fumes from an asphalt plant will affect the West Valley residential area. The staff report asserts "...minimal impact as result of dust, heat, smoke, fumes, odors". Do (Finding 14)**

*** HOURS OF OPERATION... I don't want to hear the noise, obnoxious fumes, and battle with truck traffic on a SATURDAY? The staff report states, "HOURS OF OPERATION appear to be appropriate ... 7 am – 7pm, AND SATURDAY 7am -2 pm. (Finding 15)**

*** NO ASPHALT IN RESIDENTIAL AREAS...The Montana Supreme Court ruled that West Valley is a residential area. The District Court stated that "asphalt and concrete plant operations are prohibited". (Montana Eleventh District Court Judgment in Tutvedt Family Partnership vs Flathead Co et al) Nov 2010.**

***APPROVAL OF REQUEST WILL SET A PRECEDENT...I am worried that this will open the door to industrial and/or commercial permits in West Valley.**

With West Valley School being within 5 miles of the proposed asphalt plant, the trucks that will be operating past the school will cause disruption in the classrooms, that face Farm To Market Road, from the noise of the trucks.

There is no traffic light or four way stop sign at the entrance to the school, and it will be harder for the parents to merge into traffic. What about the safety of the students at West Valley? There are many students that walk to and from school and there is only one walkway from McMannamy Draw to Rhodes Draw. Students come from all directions to get to and from school. I shutter at the thought of even one of these students getting hit.

I am so opposed to this request from Schellinger Construction.

Please vote no on this matter.

Christine Smith

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:57 AM
To: Mark Mussman
Subject: FW: Schillinger Construction and Section16 Asphalt plant 2020

From: Charles Kleffner <mtlaser@montanasky.net>
Sent: Tuesday, May 19, 2020 7:56 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schillinger Construction and Section16 Asphalt plant 2020



I've lived in the flathead for 40+ years and it's nice to drive on asphalt and not have dust.
Schillinger Construction always does a nice job and are always good neighbors.
Having all the asphalt plants in one general location is much better than all over the valley.
There is nothing wrong with adding to the county tax revenue.

With this said; I'm in favor of modifying the conditional use permit!

Chuck Kleffner
406-253-6655

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:34 AM
To: Mark Mussman
Subject: FW: Batch plant



-----Original Message-----

From: Rogers <lvnmowing@gmail.com>
Sent: Tuesday, May 19, 2020 6:02 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Batch plant

Dear Mr. Mussman,

I am writing to voice my opposition to an asphalt or concrete operation at Church drive and Farm to Market. It's my understanding the Supreme Court of Montana has ruled the area is for residential use. The owners of the property agreed to not have such an operation when they were allowed to mine gravel. I would hate to see our government roll over to business again at the expense of the common property owner. I've witnessed the ill effects from that Knife River operation on Stillwater Rd. and don't want to see that happen in the west valley. It's ridiculous to have the noise and odor occurring 24-7. What's happened to quality of life considerations? It's taken a backseat to making money every time a business wants to make more money. We buy a property taking into consideration what the neighborhood has been zoned for. To then make changes to that zoning is unacceptable. Mother Nature is screaming enough is enough. Maybe we Montanans should listen to her instead of the money mongers.

Roger Gussner
Kalispell

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:33 AM
To: Mark Mussman
Subject: FW: Objection Letter re: Proposed Concrete/Asphalt Batch Plant

From: Rebecca Briber <rebecca.briber@gmail.com>
Sent: Monday, May 18, 2020 5:42 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: Douggie Griesel <doug.griesel@gmail.com>
Subject: Objection Letter re: Proposed Concrete/Asphalt Batch Plant



May 18, 2020

Flathead County Planning & Zoning Office
West Valley Land Use Advisory Committee
40 11th Street West, Ste 220
Kalispell, MT 59901

Dear West Valley Land Use Advisory Committee:

We are writing to voice our opposition to the following: "A request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. The property contains approximately 160 acres and can be described as the northwest quarter of Section 16, Township 29 North, Range 22 West, P.M.M. Flathead County, Montana."

While we do not live in the immediate vicinity of the parcel in question (we live farther North off of Farm to Market Road), we believe that the parcel in question is not suitable for a concrete and/or asphalt batch plant, for several reasons: (1) a concrete and/or batch asphalt plant was not the approved use of this parcel when the condition of approval for gravel extraction operation was granted; (2) the proposed condition modification for operation of a concrete and/or asphalt batch plant is not in keeping with the surrounding agricultural and residential uses of surrounding parcels (both abutting parcels and parcels in the general vicinity); and (3) the operation of a concrete and/or asphalt batch plant is likely to be a nuisance due to the storage and use of toxic chemicals, production and storage of toxic byproducts, the foul-smelling nature of asphalt batch production, and the increase in commercial traffic that will result. We expand on each of these below:

(1) A concrete/asphalt batch plant was not the approved use of the parcel in question when the condition of approval for the gravel extraction operation was granted. There are many surrounding homeowners and developers who purchased surrounding parcels knowing there was a gravel extraction operation but whom likely would have opted not to purchase parcels knowing that a concrete and/or asphalt batch plant might be installed, due to the foul smell, the likelihood of toxic chemical spills, and the increase in traffic a plant like this could cause.

(2) The proposed condition modification for operation of a concrete and/or asphalt batch plant is not in keeping with the surrounding agricultural and residential uses of surrounding parcels (both abutting parcels and parcels in the general vicinity).

Currently, only gravel extraction is occurring on the parcel in question. A concrete and/or asphalt batch plant would increase the industrial use of the parcel, all while other parcels in the area are being converted to residential use from agricultural use as our valley's population expands. While we understand that it certainly must be more convenient for the gravel pit owner to put a concrete plant on the same parcel, there must be an alternative location in a non-residential area for such a plant. Anyone who has lived in the valley for even the last five years has seen this exact area and many others like it transition to residential parcels from primarily agricultural parcels. We need to take this as a sign that as our valley's population grows, it will need room to expand, and we need to plan ahead for this residential expansion. Approving a concrete/asphalt batch plant in this zone of previous and almost certain future residential expansion makes no sense whatsoever.

(3) The operation of a concrete and/or asphalt batch plant is likely to be a nuisance due to the storage and use of toxic chemicals, production and storage of toxic byproducts, the foul-smelling nature of asphalt batch production, and the increase in commercial traffic that will result. Once again, this point has a lot to do with the fact that the surrounding parcels are, increasingly over the last five years and presumably ever more increasingly in the near future, residential. The area surrounding the parcel in question is perfect for such residential expansion; why allow a concrete/asphalt batch plant when such a plant would be a hinderance to surrounding residential property values and enjoyment, and could always be built in another neighborhood that already has primarily industrial uses?

We do understand the current owner's desire for efficiency, but we feel that the look and feel of the surrounding neighborhood does not comport with a concrete/asphalt batch plant and the resulting increase in commercial activity in the area. Thank you for your time and consideration.

Best Regards,
/s/

Rebecca Briber and Doug Griesel
501 Stovepipe Rd., Whitefish, MT 59937

MAY 18 2020

MAY 19 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:33 AM
To: Mark Mussman
Subject: FW: Section 16 Asphalt Plant 2020



From: William Boehme <wmb1620@gmail.com>
Sent: Monday, May 18, 2020 4:58 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Section 16 Asphalt Plant 2020

I live about a mile due west of this proposed West Valley project. So I do have a dog in this fight. I am IN FAVOR of the project. Schellinger Construction has been a staple of the valley for decades. They have been a community supporter of many community functions such as ALERT, RMEF, to mention a few. The number of new construction jobs coming available will need their products. Once the economy returns to more normal and especially if the state starts looking into more infrastructure projects they will need asphalt and having another plant can only lead to more competition and lower costs. An expanded plant would create more jobs and tax revenues. Since there are already three gravel pits within a mile of each other I can't see any reason not to allow further use of a resource that is already being extracted and contain the activity rather than open it elsewhere.

William Boehme, MD
1121 Crane Drive
Kalispell, MT 59901

Sent from [Mail](#) for Windows 10

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 19, 2020 7:33 AM
To: Mark Mussman
Subject: FW: Yes on asphalt plant



-----Original Message-----

From: Irene Ewing <ikewing10@gmail.com>
Sent: Monday, May 18, 2020 4:58 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Yes on asphalt plant

I am in support of the Schellinger Construction permit, Section 16 Asphalt Plant 2020 With kind regards, Irene Ewing

Sent from my iPhone

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:49 PM
To: Mark Mussman
Subject: FW: Asphalt plant



From: John Rodwick <johnrodwick@gmail.com>
Sent: Monday, May 18, 2020 4:47 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt plant

This proposed business is totally inappropriate for the residential area it is located in. It will have detrimental effects on home values, air quality, ground water, noise and quality of life. These facilities smell horrible and the air around them is probably full of carcinogens.

Thank you for listening.

John Rodwick

Holly Hand

Lakeside MT

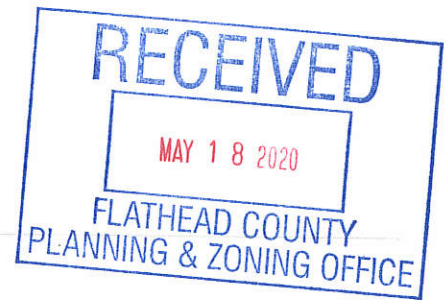
To sum

It up in a nutshell

**A Deal is a Deal!
And the county should
uphold this court approved deal
and deny this permit**

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:51 PM
To: Mark Mussman
Subject: FW: Schellinger asphalt plant



From: Kevin & Jeanine <nammy@montanasky.com>
Sent: Monday, May 18, 2020 4:50 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger asphalt plant

The 2 Buettner letters were from 285 Browns road, Kalispell 59901

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:34 PM
To: Mark Mussman
Subject: FW: Schellinger Asphalt plant



From: Kevin & Jeanine <nammy@montanasky.com>
Sent: Monday, May 18, 2020 4:34 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger Asphalt plant

“Not in my backyard” sounds really self-centered. Safer, cleaner, and a more quality highway system will benefit more of us than just those in “Their backyard.” I support Schellinger’s asphalt at 3475 Farm to Market Road plant and “yes, my whole yard is in West Valley”.

Thank You,

Kevin Buettner

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:34 PM
To: Mark Mussman
Subject: FW: Schellinger Construction-Asphalt plant

From: Kevin & Jeanine <nammy@montanasky.com>
Sent: Monday, May 18, 2020 4:30 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger Construction-Asphalt plant



Dear Planning Board,

Competition is good for the bidding process and helps to keep costs down. Local job opportunities add to our quality of life here in the Flathead.

I am in support of Schellinger's asphalt plant on Farm to Market Road.

Thank You,

Jeanine Buettner

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 4:12 PM
To: Mark Mussman
Subject: FW: West Valley Asphalt Plant Permit Request



From: Dennis Heinzig <dennis_heinzig@yahoo.com>
Sent: Monday, May 18, 2020 4:10 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley Asphalt Plant Permit Request

Dear Madam/Sir:

I would like to express my thoughts on this permit process. I do NOT think this gravel pit expansion to include an asphalt plant is appropriate for the following reasons:

1. This type of operation is not acceptable due to its negative impacts to home-owner property values.
2. Asphalt plants should not be located near residential neighborhoods.
3. There are unacceptable risks to our ground water from such an operation.
4. There are threat to public health for people living near the operation.
5. It does not appear that the Flathead Board of Adjustment has provided the factual data for public review upon which they based their findings.
6. Additional research and public input is should be required as this will affect many people in the West Valley and NOT just those within 100 feet.

Thank you for your consideration of my points.

Regards,
Dennis Heinzig
1617 Whitefish Hills Dr.
Whitefish, MT 59937

•

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 3:38 PM
To: Mark Mussman
Subject: FW: Residential Zoning



From: Ben Barckholtz <bbarckholtz@gmail.com>
Sent: Monday, May 18, 2020 3:25 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Residential Zoning

I would like to show my support of residential Zoning and the prohibition of the proposed asphalt operations in the west valley. While I love small government, these zoning rules exist for a reason.
-Ben Barckholtz

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 12:59 PM
To: Mark Mussman
Subject: FW: Proposed asphalt batch plant in a West Valley residential area



-----Original Message-----

From: Catherine Haug <cmhaug44@gmail.com>
Sent: Monday, May 18, 2020 12:54 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: Richard Turbiac, Exec. Dir. <citizens@flatheadcitizens.org>
Subject: Proposed asphalt batch plant in a West Valley residential area

I strongly believe industrial asphalt batch plants should be kept out of residential areas. Please do not approve the proposal. They are toxic and dangerous in the same neighborhood where humans live, especially children and seniors.

It is my understanding that the proposed plant is to be added on property that is already a gravel pit. Yet a 2010 final court settlement regarding the gravel pit stated asphalt and concrete batch plant operations are prohibited. Please respect the court settlement and disapprove this current proposal.

Catherine Haug
145 Bay Drive
PO Box 1693
Bigfork MT 59911
(406) 837-4577

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 12:59 PM
To: Mark Mussman
Subject: FW: Proposed Asphalt batch Plant in the West valley



From: Michael Moffitt <mmoffitt406@gmail.com>
Sent: Monday, May 18, 2020 12:20 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Proposed Asphalt batch Plant in the West valley

I have read the background information on the Asphalt batch Plant proposed by the Tutvedt Partnership and I want to state that my entire family strongly opposes this proposal. The agreement reached with the County 15 years ago should stand.

Michael Moffitt
Whitefish

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 12:59 PM
To: Mark Mussman
Subject: FW: West Valley and proposed Asphalt Plant



From: Nuggett Carmalt <nuggett@majesticvalleyarena.com>
Sent: Monday, May 18, 2020 12:04 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley and proposed Asphalt Plant

To whom it concerns,

I would like to voice my concerns about the proposed asphalt plant in West Valley on the Tutvedt land. I was highly involved in 1995-1996 organizing and establishing the updated West Valley zoning. We never intended for there to be a large scale gravel pit, and in no way shape or form an asphalt plant.

I drive Church Drive regularly and have on a regular basis watched dump trucks, and belly dump trucks on an average one truck every 2-3 minutes from highway 93 to Farm to Market. From highway 93 to Farm to Market there are trucks coming and going from LHC off Stillwater, Kueger sand pit, Tutvedt gravel off West Valley, and another Tutvedt gravel pit off Farm to Market. In a 4 mile stretch of road you have 4 pits running numerous pits and Church Drive is not the only route they drive.

We have dealt with contaminated water in the same radius as the proposed asphalt pit and some wells are still not whole. No one was ever held accountable for the contamination. I have lived at the same address for close to 50 years and the wells were not contaminated growing up, but with the increase in pivots and nitrates being injected into the water we (the neighbors) got contaminated wells.

Tutvedts agreed to not have an asphalt plant during the second go around with the West Valley board and they need to leave it be. We do not want an asphalt plant in our neighborhood. It will adversely affect the immediate neighborhood and a 4 mile radius which includes the West Valley School and the families and kids that drive that stretch of road.

West Valley is not commercial, we are Ag and residential, the folks out here do not want an Asphalt Plant and our voices have the right to be heard and we will be heard.

Thank you,
Nuggett Otten Carmalt
1925 Church Drive
Kalisell

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 1:16 PM
To: Mark Mussman
Subject: FW: Batch plant in West Valley



From: Edd Blackler <blacksandedd@gmail.com>
Sent: Monday, May 18, 2020 1:13 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Batch plant in West Valley

Whomever:

A batch plant should not be approved in West Valley as Montana Supreme Court ruled that it is a residential zone. Batch plants are not allowed in residential zones.

People have purchased property in West Valley with the understanding that batch plants and other Industrial operations were not allowed. They stand to lose property value if the residential zoning rules are not upheld. I strongly urge you to deny the batch plant in West Valley request.

Industrial zones and residential zones must be separate.

Thank you for your consideration.

Edd Blackler, 33435 Quarter Circle Way, Bigfork, MT 59911

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 10:26 AM
To: Mark Mussman
Subject: FW: batch plant



From: Mary Jo Gardner <mjgardner1234@gmail.com>
Sent: Monday, May 18, 2020 10:25 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: batch plant

NO to asphalt batch plant. I rode my bike most nice days to work at FairMontEgan school for 22 years. The blue smoke and pungent and acrid smell from the asphalt plant along the way was disturbing to the senses along with being a health hazard!

--

Mary Jo Gardner
1230 5th Avenue East
Kalispell MT 59901
406-249-2497

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 10:23 AM
To: Mark Mussman
Subject: FW: Tutvedt Family Partnership Batch Plant Proposal



From: Catherine Malarchick <catchick89@montanasky.net>
Sent: Monday, May 18, 2020 10:23 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Tutvedt Family Partnership Batch Plant Proposal

- 1. Impacts to home-owner property values are unacceptable**
- 2. Asphalt Plants don't belong in residential neighborhoods.**
- 3. Risks to ground water contamination are unacceptable.**
- 4. Likely impacts to the health of family's living near this proposed plant are unacceptable.**
- 5. Where is the factual data that Flathead County Zoning regulations require to for the Flathead Board of Adjustment to base their findings on?**
- 6. Additional research and testimony is needed.**

The addition of a batch plant in this and virtually ANY residential area will negatively impact infrastructure capacity, traffic (both pedestrian and motorized), noise, public safety, air quality, West Valley School, including staff, students and parents).

Catherine Malarchick & Ken Siderius
688 Madera Trail
Kalispell, MT 59901

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 10:07 AM
To: Mark Mussman
Subject: FW: Remain Residential

From: Barbara Lewis <pblewis@centurytel.net>
Sent: Monday, May 18, 2020 10:03 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Remain Residential



Hi,
Please consider the following:

Where is the factual data that Flathead County Zoning regulations require to for the Flathead Board of Adjustment to base their findings on?

Risks to ground water contamination are unacceptable.

Asphalt Plants don't belong in residential neighborhoods.

Impacts to home-owner property values are unacceptable

Thank you.
Barbara Lewis
670 Armory Rd
Whitefish, MT. 59937

Sent from my iPad

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 9:31 AM
To: Mark Mussman
Subject: FW: Asphalt Plant at 3427 Farm to Market Rd



From: Colin McClure <cbmcclure22@gmail.com>
Sent: Monday, May 18, 2020 9:23 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt Plant at 3427 Farm to Market Rd

I support the Shellinger Asphalt Plant. As someone who has grown up in West Valley, I appreciate driving on asphalt, instead of gravel or dirt roads.

An asphalt plant the size of two semi trailers will not cause any more harm than the current gravel pit and it should put fewer gravel trucks on the road. Not to mention the current state of the roads in West Valley, we need all the asphalt we can get.

Thank you,

Colin McClure
555 Clark Dr
Kalispell, MT 59901

"I prefer to drive on asphalt, there is less dust than on gravel, I support Schellinger's asphalt plant at 3427 Farm to Market Road.

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 9:31 AM
To: Mark Mussman
Subject: FW: Section 16 Asphalt Plant 2020

From: Danielle Blanc <blanc.danielle.r@gmail.com>
Sent: Monday, May 18, 2020 9:13 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Section 16 Asphalt Plant 2020



To Whom It May Concern:

I would like to express my support of the proposed asphalt plant on Farm to Market Rd. I live in West Valley and feel that the area will benefit from the influx of jobs in these challenging times.

Regards,
Danielle Blanc

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 9:28 AM
To: Mark Mussman
Subject: FW: OPPOSE - asphalt and/or concrete batch plant at Church Drive

From: Linda Hubner <lahubner@centurylink.net>
Sent: Monday, May 18, 2020 8:54 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: Linda Hubner <lahubner@centurylink.net>
Subject: OPPOSE - asphalt and/or concrete batch plant at Church Drive



Dear Mr. Mussman,

I am writing to oppose that the county allow Schellinger Construction to modify their existing agreement to operate a gravel pit by adding a asphalt or concrete batch plant at Church Drive and Farm to Market. This was previously addressed in 2010 when the landowners agreed to only allow a gravel pit to operate. Nothing has changed - this is a residential area, not an industrial area.

I live off Farm To Market road about 3-4 miles north of the proposed asphalt and/or concrete batch plant and frequently travel Farm to Market and Church Drive past the existing plant.

I am adamantly opposed to the proposal. Such a development will decrease property values and quality of life in the West Valley area. Most importantly, it will increase the already large number of trucks that are constantly moving on Church Drive and on Farm to Market. This is unsafe for the people who live on Farm to Market and Church Drive and who travel the road to get to work and to school. It will be exceptionally dangerous for the children who travel to West Valley School.

The Schellinger gravel pit is already an eyesore for Flathead County and West Valley. The berms are not maintained and the landscaping is pitiful. No modification to existing agreements to permit further expansion should be allowed.

Thank you for your consideration,
Linda Hubner

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 8:01 AM
To: Mark Mussman
Subject: FW: WVLUAC Meeting May 21, 2020



From: G & D Nielsen <nielsen@fastmail.com>
Sent: Monday, May 18, 2020 7:56 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: WVLUAC Meeting May 21, 2020

Mr. Mark Mussman, Director
Flathead County Board of Adjustments

Ref: Proposed construction of a concrete and/or asphalt batch plant at 3427 Farm-To-Market Road

Dear Mr. Mussman,

Since we are unable to attend the May 21st of the West Valley Land Use Advisory Committee (WVLUAC) this email is to inform you that my wife and I formally go on record as opposing the granting of the conditional use permit (CUP) application #FCU-20-04 concerning the construction of a concrete and/or asphalt batch plant at the existing gravel mine at 3427 Farm-To-Market Road in West Valley.

Not only will a concrete and/or asphalt batch plant degrade the market value of all the surrounding property, it will also certainly negatively impact the residents, wildlife, livestock, water, noise, and air quality in a very scenic part of the valley.

The construction of these plants is not in the interest of the residents of West Valley, nor is it in the best interest of maintaining the integrity of the West Valley Zoning as has been in effect in the area for many decades.

Respectfully,

MSgt. Gerald Nielsen, USAF (Ret)
Diana Nielsen, RDH

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 7:40 AM
To: Mark Mussman
Subject: FW: Opposition to Batch Plant in West Valley



From: Jan Fiaschetti <jfiaschetti@krmc.org>
Sent: Monday, May 18, 2020 7:26 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Opposition to Batch Plant in West Valley

Dr. Mr. Mussman, I am a resident of Lone Coyote Trail in the West Valley and have already been subjected to the noise, heavy traffic and all the environmental insults that accompany the gravel pit that is North/West of my home. I am a home owner who pays her mortgage and taxes, and I value the property and environment that I chose to make my forever home. From what I have researched about the environmental consequences of a working gravel pit/batch plant, the potential adverse impact on the air, water and land are enormous, as well as a direct threat to the health and welfare of the residents who live nearby. Clearly, Schellinger Construction and Linda Tutvedt are more interested in the favorable financial impact this project will have on them than on the welfare of those residents that approval for this venture will threaten. I am opposed to a Batch Plant being approved. You have my unwavering support on this matter and if there is anything more that I can do, please let me know. Sincerely, Jan Fiaschetti, LCPC,LAC

CONFIDENTIALITY NOTICE:

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Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 7:39 AM
To: Mark Mussman
Subject: FW: Schellinger Asphalt Plant



From: Linda Tutvedt <lindatutvedt@gmail.com>
Sent: Sunday, May 17, 2020 2:02 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Schellinger Asphalt Plant

Section 16 Asphalt plant 2020

Schellinger Construction and Section 16 FLP are requesting modification of their conditional use permit to allow the operation of a concrete and/or asphalt plant on an existing gravel extraction operation located at 3427 Farm to Market Road. I support this modification for the following reasons:

1. **Jobs** – We are heading into a recession larger than the great depression. Schellinger Construction is investing in infrastructure that will help to create more jobs at a time when they will be desperately needed. “36.5 million people have filed applications (for unemployment) in the past eight weeks”. *Wall street Journal Friday, May 15, 2020.* Many of us want our children to be able to stay in the Flathead when they graduate from school. We need good jobs here in the flathead for them to be able to do that.
2. **Fair play** – There are three gravel extraction operations within three miles of the subject property all zoned West Valley. All are allowed asphalt and concrete plants. Not allowing Schellinger an asphalt plant gives the others an unfair advantage. Any restrictions put on the asphalt plant will do the same. It is like expecting one little league team to play without thumbs on their gloves.
3. **Taxes** – Any increase in product will increase tax revenue, reducing the tax burden on other tax payers.
4. **Road Quality** - Farm to market is built to a higher standard than other county roads in West Valley, and it is designed for the heavier traffic.
5. **Quality** - Schellinger Construction is a quality firm that does quality work, they are good neighbors and will continue to be a good neighbor.

Linda Tutvedt
Managing Partner Section 16 FLP
2335 West Valley Drive

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 7:39 AM
To: Mark Mussman
Subject: FW: Section 16 Asphalt Plant 2020



From: Debbie Snyder <dandebbs1978@gmail.com>
Sent: Sunday, May 17, 2020 12:49 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Section 16 Asphalt Plant 2020

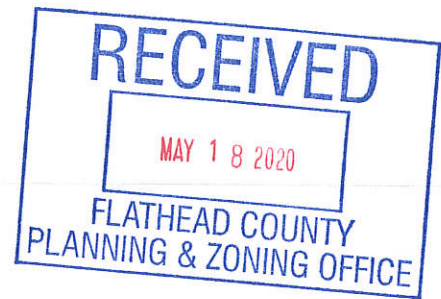
I was born and raised in the West Valley area. The West Valley area will continue to grow, especially in the near future. The gravel is needed, the jobs are needed, the time is now. Let's level the playing field. I am in full support of Schillinger's Asphalt plant at 3427 Farm to Market Road.

Thank You

Sincerely,
Debbie Snyder
271 Commons Way
Kalispell, MT 59901

Mark Mussman

From: Mary Fisher
Sent: Monday, May 18, 2020 7:36 AM
To: Mark Mussman
Subject: FW: FCU-20-04



From: Frank & Linda de Kort <dekort@montanasky.com>
Sent: Sunday, May 17, 2020 11:47 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04

To: Flathead County Board of Adjustment members, Cal Dyck, Gina Klempel, Ole Netterberg, Roger Nobel, Tobias Liechti.

From: Frank and Linda de Kort, 1290 Lost Creek Drive, Kalispell

Re: FCU-20-04

Date: May 17, 2020

We are residents of West Valley and we request that you deny the conditional use permit for an asphalt batch plant at 3427 Farm to Market Road.

We have many objections to this plant and the manner in which it seemed to be expedited. Our main concern however is based on the staff report's argument that there are other asphalt batch plants that have been approved in this area since the definition of gravel extraction has been changed. The report argues that the Tutvedt gravel pit, which was approved prior to this change in definition, should therefore be given the same economic benefit. Our counter argument is that these existing asphalt plants are located in very different geological locations. The Tutvedt gravel pit is located over the very fragile Lost Creek Fan. As determined by the Montana Bureau of Mines and Geology (Favre, Smith and Patton, 2000): ***"Lost Creek fan (is) a thick accumulation of outwash deposited by glacial meltwater. These data suggest that protective layers of till and glacial-lake deposits may be locally absent or discontinuous and that the deep alluvial aquifer may be locally vulnerable***

to surface contamination. “ It is this vulnerability to surface contamination that is so concerning because asphalt contains toxic chemicals. According to *Ullman’s Encyclopedia of Industrial Chemistry: The components of asphalt include four main classes of compounds: Naphthlene, High Molecular weight* <https://en.wikipedia.org/wiki/Molecular_weight> *phenols* <<https://en.wikipedia.org/wiki/Phenols>> , *Carboxylic acids, Saturated hydrocarbons* <[https://en.wikipedia.org/wiki/Saturated hydrocarbons](https://en.wikipedia.org/wiki/Saturated_hydrocarbons)> . *In addition, most natural bitumens also contain organic sulfur compounds, nickel and vanadium.*

The potential of a major accident or even a minor spill at the asphalt plant contaminating Lost Creek Fan from which residents receive well water was not addressed. In fact both the application and the staff report state unequivocally that: “all environmental impacts are addressed.”

Another major concern that we have is the growing residential nature of the surrounding property on Farm to Market Road. The other two existing asphalt treatment plants in the West Valley area are on back roads with few existing residences. The location map which was submitted with the application is dated 12/18. Many new residential plots have been established and developed, several by the applicants themselves, since that map was produced.

Moreover, “GRANDFATHERING IN” works both ways. Our understanding is after a rule (or definition) change, new rules and definitions apply to new members only. The old members are “grandfathered in” in which case, the old rules still apply. Since the original gravel pit permit specifically prohibited asphalt and concrete batch plant, that prohibition is grandfathered in despite the change in definition made after the permit was granted.

We also find it very unsettling that this application and review process seems to be hurried through. The application lacked any details of the plant design, duration, dimensions...etc. The original staff report was extremely deficient of detail and examination. The carelessness with which this important issue was handled is very evident in the last cut and paste paragraph of the original staff report:

“Upon review of this application, the request to allow for Recreational Facility on the subject property is generally supported by the review criteria and the Findings of Fact listed above. ”

We are certain that if indeed a recreational facility were the subject of review here, it would not be subjected to such opposition by the neighborhood.

We conclude that because of the major environmental concerns and related legal issues, this application should be rejected. We trust that you will conclude the same.

Sincerely,

Frank and Linda de Kort
1290 Lost Creek Drive
Kalispell, Montana 59901

Tele: 406 755 3704

W. Kim and Janet Davis
200 Brookside Trail
Kalispell, MT 59901



Dear Flathead County Board of Adjustment:

As residents of West Valley and an active part of the community members that came together to produce the West Valley Neighborhood Plan, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow "asphalt and concrete operations". This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The conditional use permit that was allowed was specific to strictly gravel extraction. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. We understand the the County has changed the definition of "gravel extraction". That may work in other areas where more industrial type operations are permitted, but West Valley remains an agricultural and residential community. The plan specifies "Industrial uses should not be permitted except those accessory to normal farm operations".

A disturbing fact about this proposal is that it is coming to the Board of Adjustment and did not get the chance to be heard by the community at the West Valley Advisory Committee meeting. We know that the Advisory Committee meeting had to be cancelled due to COVID-19 concerns, but it doesn't seem appropriate that the proposal automatically gets to go before the Board of Adjustment.

We would ask that you not allow this change to the permit that was issued, which prohibited asphalt and concrete batch plant operations.

Thank you very much for your time and effort in this matter, and thank you for your service to the community.

Sincerely,

W. Kim Davis
Janet Davis

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 3:45 PM
To: Mark Mussman
Subject: FW: Schellinger Construction Asphalt Plant Application



From: Dan Leatzow <dmleatzow@gmail.com>
Sent: Tuesday, May 5, 2020 3:44 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Cc: Elaine Brewer <brewer4of6@hotmail.com>; Denise Brewer <moobrew2@montanasky.net>
Subject: Schellinger Construction Asphalt Plant Application

Dear Planning and Zoning Team:

I am writing to put forth my comment that is strongly AGAINST the current application by Schellinger Construction for modification of the Gavel Pit operating permit in West Valley just south of Church Drive and east of Farm-to-Market Road. It is my understanding that the staff report finds no reason to deny the application. However, I would tend to disagree with the finding based on the simple fact that the activity is in direct conflict with the West Valley Planning document. The intent of the West Valley Plan is to preserve the character of the West Valley area as agricultural and residential. An asphalt or concrete batch plant are very much industrial applications, which is not allowed under the intent of the plan.

Also, the applicant knowingly accepted the condition of NO Asphalt or Concrete plant in order to secure the ability to operate a gravel pit. Now 15 years later, does Schellinger Construction really believe that public sentiment has changed regarding the operation? I adamantly submit NO. As a resident, living at 2111 Church Drive, I can testify to the dust and debris on Farm-to-Market resulting from the current gravel pit operation. As a Montana licensed Professional Engineer, I would state without reservation that the environmental impact of expanding the pit operation with exacerbate the tracking of mud, dirt and rocks onto public roadways. Case in point, during the week of April 27, 2020, my wife (Elaine Brewer-Leatzow of Bald Rock Road) was driving Farm-to-Market when the van she was driving was struck by a rock thrown by a dump truck, owned by Massey Construction, while utilizing the Schellinger pit. The windshield sustained a golf ball sized contusion that necessitates replacement. This example of damage to the public will only continue and increase with increased activity.

Schellinger Construction already has an asphalt and batch plant. It is entirely possible to follow the same model used by LHC, Inc., who trucks all material to their plants located off Stillwater Road. Schellinger Construction can haul the gravel and material needed from the West Valley pit to their plant. Incidentally, LHC erected their asphalt and concrete plants in 1999 and 2002, respectively. The plants were established before the Schellinger pit existed.

Lastly, the addition of asphalt and gravel operations to the pit will have a negative impact on surrounding land valuation. It is beyond comprehension how an individual could create a housing development and then vastly change the character of the surrounding area, unless one's conscience is clouded by greed and money. The production of asphalt and/or concrete does not belong in the West Valley area. The conditions were accepted by the application in 2005 and nothing has changed.

I submit to the Board of Adjustments that the application be denied.

Sincerely,

--

Dan Leatzow, PhD, PE

Montana PE#18382

2111 Church Drive

Kalispell, MT 59901

P: (406) 471-1422

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 10:45 AM
To: Mark Mussman
Subject: FW: Postponed Vote Request/Concern



From: Tiffany Moloney <tmoloney@krmc.org>
Sent: Tuesday, May 5, 2020 10:35 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Postponed Vote Request/Concern

To Whom It May Concern,

I am writing to you today to request that you postpone the vote regarding the application for a concrete and/or asphalt batch plant on the existing gravel site at 3427 Farm To Market Road. I feel the residents need more information and that the notification process of making residents aware was not thorough and was not timely. The public has not been given adequate information or time to comment, especially due to the recent COVID-19 restrictions that have been in place.

I oppose the pit for health and safety concerns as well as all the impacts it will have to values within close proximity to it. I have children that attend West Valley School. The traffic is a major concern in that area, especially with its proximity to the school and sharing Farm to Market Road. I am also a current owner of a lot on Canola Road. No notification was posed to me directly and I feel this is a direct impact to me and my future plans with my property.

Please postpone the vote until COVID-19 restrictions have been lifted through phase 3 OR until at least July 1, 2020. This will allow for proper communication to all West Valley residents and allow enough time for feedback and comments on the proposal.

Thank you for your time,

Tiffany Moloney

CONFIDENTIALITY NOTICE:

This email and any attachments are intended only for the use of the individual or entity to which it is addressed. This communication is considered confidential, as it may contain privileged or confidential information that is protected by federal or state law. Any unauthorized direct or indirect disclosure, use, printing, alteration or copying of this communication is prohibited and may be unlawful. If you are not the intended recipient or a person responsible for delivering this communication to the intended recipient, you have received this communication in error. If you have received this communication in error, please notify the sender immediately and also notify our Compliance Office by calling 406-752-1742 and delete this communication and any attachments. Any opinions, views, advice or other statements contained in this communication are those of the individual sender and do not necessarily represent those of Kalispell Regional Healthcare. Kalispell Regional Healthcare and its affiliates claim all applicable privileges related to the information contained in or transmitted with this communication. KRHPA616

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 10:20 AM
To: Mark Mussman
Subject: FW: Asphalt

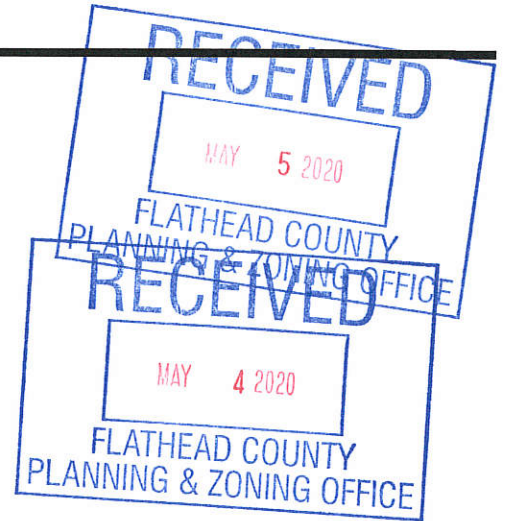
-----Original Message-----

From: Sarah Cameron <sarah.e.cameron@icloud.com>
Sent: Tuesday, May 5, 2020 10:19 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt

I was just notified about the meeting this evening and am very much against the permit being expanded to include batch processing. My children go to West Valley School and we are residents in West Valley and do not want this potential hazard to be part of our neighborhood or school. Please do not expand the permit. Thank you.

Sarah Cameron

Sent from my iPhone



Mark Mussman

From: Peter Fennelly <peter.fennelly@gmail.com>
Sent: Monday, May 4, 2020 9:42 PM
To: Mark Mussman
Subject: Asphalt concrete plant Wesvalley

We suggest that the board of adjustments table the matter for Shellinger request until the fall until the residence of Wesvalley can get legal counsel and do their own due diligence and the applicant can do their proper diligence. This whole thing for an application at this time when the state country and county are a scent and dealing with COVID-19 is an underhanded way to handle business definitely opens a big can Of worms for a lawsuit attached to this if it is not tabled at least until the fall of 2020. This will give at least some respect and time for the local residence some time to digest this illegal underhanded big change to our neighborhood environment.

Regards. Peter fennelly
1585 Church drive

Sent from my iPad



Mark Mussman

From: Teri Bjornrud <teri@centurytel.net>
Sent: Monday, May 4, 2020 9:28 PM
To: Mark Mussman
Subject: Addl comment. Re: Agenda



Hi

Are there enviro impact studies, traffic studies, etc? How old are these studies? What happened with the study in the Lost Creek area water table. Isn't there a lack of clay base or some other Oddity about the area - aquifer?

Teri Bjornrud

On Apr 30, 2020, at 2:38 PM, <mmussman@flathead.mt.gov> wrote:

Attached is the agenda of the May 5 Board of Adjustment meeting with instructions on how to access the meeting by phone.

Mark Mussman, CFM

Director
Flathead County Planning & Zoning
40 11th Street West
Kalispell, MT 59901-5607
Phone: 406.751.8200
Fax: 406.751.8210

<5-5 BOA Agenda.pdf>

Mark Mussman

From: Amy Fennelly <amyfennelly10@gmail.com>
Sent: Monday, May 4, 2020 9:10 PM
To: Mark Mussman
Subject: concrete/asphalt batch plant



Mark, I spoke with you last week. I am again urging you to postpone this vote until the June meeting, too little time and too much covid 19. This is way too important and affects too many lives!

Thank you,

Amy Fennelly

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 8:15 AM
To: Mark Mussman
Subject: FW: NO concrete batch plant in west valley

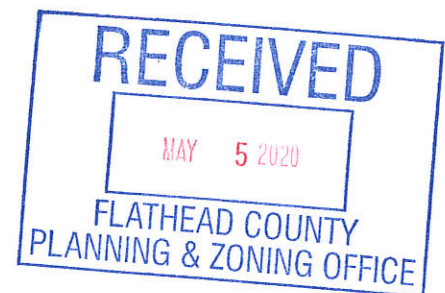


From: Reddy Waters <reddy.waters@gmail.com>
Sent: Tuesday, May 5, 2020 8:14 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: NO concrete batch plant in west valley

Hard no on this one, in fact a firm fuck you to the county commissioners.

We get it. Pam, Randy, & Phil could give two shits less about anything but lining their pockets with as much cash as possible.

Why inform the public of anything? Schellinger is your daddy, and you are their bitches doing the dirty work.



Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:44 AM
To: Mark Mussman
Subject: FW: Public Comment, Farm to Market Asphalt Batch Plant
Attachments: Public Comment, Asphalt Batch Plant.pdf



From: Sierra McCartney <mccartney13@csld.edu>
Sent: Monday, May 4, 2020 11:19 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>; Mark Mussman <mmussman@flathead.mt.gov>
Subject: Public Comment, Farm to Market Asphalt Batch Plant

Mark,

Please see my comments regarding the proposed asphalt batch plant on Farm to Market Road.

Thank you,

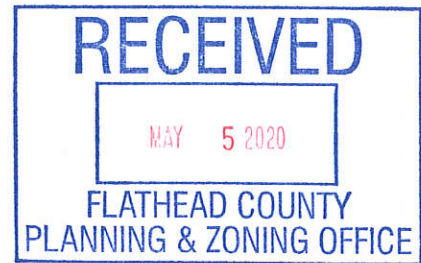
Sierra



Sierra McCartney
7227 Farm to Market Road
Whitefish, MT 59937

May 4, 2020

Mark Mussman
Planning and Zoning Department
40 11th Street West, Suite 220
Kalispell, MT 59901



Dear Mark,

I do not support the Application for Condition Modification to FCU-05-07(a) for the following reasons:

1. Zoning was created to separate uses that are incompatible with each other. In the Flathead County Planning and Zoning Office Conditional Use Permit Report, the adjacent land uses are described as being agriculture and single family dwellings. An industrial asphalt batch plant is incompatible with these uses, and therefore, shall not be permitted. Zoning is put in place to protect property owners. Buying a house is the largest investment most families will make in their lifetime. When West Valley residents bought property in the neighborhood, they thought it would be just that, a neighborhood, not an industrial park. How much will property values decrease in the area due to the proposed development? The planning office cannot devalue properties by approving incompatible conditional use permits.
2. Site maps were provided for the proposed development, but in order to understand the project, detailed structural plans and elevations need to be provided. How large is the proposed equipment/structure? A rectangle labeled 'Equipment Set Up' on a google earth map does not provide enough information for review and comment.
3. Public notification about the proposed Application for Condition Modification has been inadequate. The permit report describes the adjacent properties as being large acreage properties, and yet only property owners within 150' of the proposed plant have been notified. Three or four property owners were notified, while the proposed plant will affect all properties in the entire West Valley zoning district. In 2010, the original permit was approved based on the condition that "Asphalt and concrete batch plant operations are prohibited." How can this condition be reversed without adequate public comment? We are currently in the middle of a pandemic, and inadequate notification, on top of a telephone conference public hearing, qualifies as a misuse of the review process.

Mark, in the community, you are known as "the planner who has never seen a development you do not like." From my point of view, this request for an amendment is a simple no. Its proposed use does not fit the adjacent land uses, and the original permit was approved based on the condition that its proposed use was prohibited. I hold on to the hope that my comments will be taken into consideration,

and that there will be some developments in the Flathead Valley that we can all agree, should not be approved.

Sincerely,

Sierra McCartney

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:44 AM
To: Mark Mussman
Subject: FW: Letter to review regarding Proposed Asphalt plant zoning amendment

From: Brett Svetlik <brett.svetlik@gmail.com>
Sent: Monday, May 4, 2020 11:14 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Letter to review regarding Proposed Asphalt plant zoning amendment

Flathead County Planning and Zoning Office
Board of Adjustments
Monday, May 4, 2020

From: Brett Svetlik
7227 Farm to Market Rd, Whitefish, MT 59937



Dear Mark Mussman and Staff,

I am writing to share my concerns regarding the proposed asphalt plant amendment to the current conditional use permit #20-04 (Shellinger Construction) - located at: the north one-half of Section 16, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

First of all, I want to share my view that this issue is being forced through the planning and zoning laws without proper notification to affected persons and without proper review from our county leadership. Online meeting? Give me a break. Postpone it until we can get real people affected by this issue into the room to talk to your board members in person. Mailed notification to property owners within 150 feet? 6 people? Now that's a great base of community members to judge your new asphalt plant amendment on!

If this issue wasn't shared with me from my friends and family, this plant would have been pushed forward and most likely approved only with hesitation, unrest, and disappointment seeping in afterward. Let's do the right, civil thing by including everyone involved and listening to what they have to say. Give it more time and plan it like your job calls for.

Although this property is privately owned, there is currently a huge mine dug in the ground and rural roads intersect the operation on two sides. Let's not let it get worse and let new stipulations get added without proper review and insight. When was the last time your board members and office staff have taken a drive past the pit? Do the newly planted lines of trees and berms really mask what's happening behind the gate? Do we really need an asphalt plant in the West Valley, where we are trying to salvage what's left of our agricultural heritage of the Flathead Valley? How about putting it next to the new Ford dealership, Silverbrook Estates and the Gym on the other side of Church Drive? That just got trashed in the last few years. They might get a little more excited. How about next to the newly approved Town Dump in Whitefish?

Looking into the current regulations, your office is seeing if the issue can be amended to put the one rule that prohibits this use under the rug. Why can't you just say NO? Your office and leadership has been voted in to

serve the community and people of the Flathead Valley. If you listen to them, the majority of them will tell you that this isn't approved for this property. I read the rule in the property's conditional use permit. The residential and agricultural uses of the surrounding area will be negatively impacted by this use. According to our state constitution, we are guaranteed clean air and water, both of which will be negatively affected by this operation.

If our state was in dire need of more asphalt and our community depended on it, maybe, as a community, we'd look into it further and come up with a solution for everyone. I'd love for you to send me a list of everyone positively affected by this proposed conditional use amendment and the destruction and conversion of another 40 acres of open agricultural space. I'd bet that the list of people against might just be a little bit more. I can see the deer, elk, migratory birds, and countless other wildlife singing in unity now.

All I'm asking for in this letter is for your office to visit the current laws regarding this property use, giving more time, listening to the entire community that this project proposal affects, thinking of what kind of legacy you want to leave for your children and taking a drive down Farm to Market Road to see who it is really going to affect.

Your neighbor who lives more than 150 feet away from the proposed site,

Brett Svetlik
7227 Farm to Market Road
Whitefish, MT
406-863-9664

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:44 AM
To: Mark Mussman
Subject: FW: FCU-20-04 Operations of a concrete/ashphalt plant

From: Karli Miller <kmiller13133@gmail.com>
Sent: Monday, May 4, 2020 9:57 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04 Operations of a concrete/ashphalt plant

Hello,

Dated May 4th, 2020

I am writing in objection of the county allowing Schellinger Construction to modify their conditional use permit to allow a concrete/asphalt batch plant.

We recently built in west valley and are concerned of amount of extra traffic this will bring to the area. Not to mention the safety of our students with the school right there with bus stops on the route to the current gravel pit.

West valley is not a commercial business area and we do not agree with the idea of adding a asphalt/concrete plant to this location.

Thank you for your time.
Karli Miller
kmiller13133@gmail.com



Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:43 AM
To: Mark Mussman
Subject: FW: Contact Message

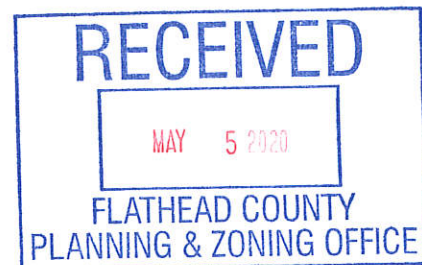


From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Monday, May 4, 2020 9:56 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	Christine Smith
Email:	razberry1260@yahoo.com
Subject:	Scellinger Construction request you modify original permit
Message:	<p>I strongly oppose Rob Koizer of Schellinger Construction request to modify conditions of the original permit to asphalt and concrete batch plant in regards to the property located at 3427 Farm to Market Road. These permits were denied when the gravel pit originally opened. Why are they being requested again, during a time when concerned residents cannot attend the meeting because of the COVID 19 is highly suspicious. My main concerns are water supply and quality. In addition, West Valley School, just south of the pit, is already severely contested with traffic from school drop-offs and picking up their kids. Trucks were told to stay away from the school when the pit first opened, but they still roar down the road, going over the posted speed limit. Our children's safety and the noise from these trucks should be our top priority.</p>

Mark Mussman

From: Mary Fisher
Sent: Tuesday, May 5, 2020 7:43 AM
To: Mark Mussman
Subject: FW: Contact Message



From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Monday, May 4, 2020 7:39 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name:	Ronald and Patricia Nelson
Email:	ronpatnelson@gmail.com
Subject:	conditional-use permit for concrete and asphalt plant
Message:	<p>If adding a concrete and asphalt plant to the gravel site on Farm To Market road will add 100 trips per day, assuming round trips and 8 hour days, it is an additional 25 trucks per hour on Farm To Market. If half of them head south, thats a truck every 5 minutes at the intersection of West Reserve and Farm To Market. West Valley School has already had a large expansion since 2005 and needs another to handle 1000 more students. Trucks will either have to drive past the school or turn left onto West Reserve. Either way they will be 90 degrees to traffic into or exiting the school. It is our wish you do not approve the expansion of the conditional-use permit. If you do I hope you add provisions limiting hours to avoid school drop off and pick-up and lunch times. We also hope you get funding to expand traffic control at the intersection of West Reserve and Farm To Market. Sincerely, Ronald and Patricia Nelson</p>

Mark Mussman

From: Brett Svetlik <brett.svetlik@gmail.com>
Sent: Monday, May 4, 2020 11:22 PM
To: Mark Mussman
Subject: Public Comment for Proposed Asphalt Plant on Farm to Market Road

Flathead County Planning and Zoning Office
Board of Adjustments
Monday, May 4, 2020

From: Brett Svetlik
7227 Farm to Market Rd, Whitefish, MT 59937



Dear Mark Mussman and Staff,

I am writing to share my concerns regarding the proposed asphalt plant amendment to the current condition (Construction) - located at: the north one-half of Section 16, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

First of all, I want to share my view that this issue is being forced through the planning and zoning laws with and without proper review from our county leadership. Online meeting? Give me a break. Postpone it until you get into the room to talk to your board members in person. Mailed notification to property owners within 150 feet of the community members to judge your new asphalt plant amendment on!

If this issue wasn't shared with me from my friends and family, this plant would have been pushed forward without rest, and disappointment seeping in afterward. Let's do the right, civil thing by including everyone involved. Give it more time and plan it like your job calls for.

Although this property is privately owned, there is currently a huge mine dug in the ground and rural roads let it get worse and let new stipulations get added without proper review and insight. When was the last time you have taken a drive past the pit? Do the newly planted lines of trees and berms really mask what's happening with the asphalt plant in the West Valley, where we are trying to salvage what's left of our agricultural heritage of the area? To the new Ford dealership, Silverbrook Estates and the Gym on the other side of Church Drive? That just makes me get a little more excited. How about next to the newly approved Town Dump in Whitefish?

Looking into the current regulations, your office is seeing if the issue can be amended to put the one rule that you just say NO? Your office and leadership has been voted in to serve the community and people of the Flathead County. The majority of them will tell you that this isn't approved for this property. I read the rule in the property's condition. The residential and agricultural uses of the surrounding area will be negatively impacted by this use. According to the regulations, guaranteed clean air and water, both of which will be negatively affected by this operation.

If our state was in dire need of more asphalt and our community depended on it, maybe, as a community, we could find a solution for everyone. I'd love for you to send me a list of everyone positively affected by this proposed construction and conversion of another 40 acres of open agricultural space. I'd bet that the list of people against might just be migratory birds, and countless other wildlife singing in unity now.

All I'm asking for in this letter is for your office to visit the current laws regarding this property use, giving me that this project proposal affects, thinking of what kind of legacy you want to leave for your children and take see who it is really going to affect.

Your neighbor who lives more than 150 feet away from the proposed site,

Brett Svetlik
7227 Farm to Market Road
Whitefish, MT
406-863-9664



ReplyForward

MAY 04 2020

April 30, 2020

Mark Mussman
Planning Director
Flathead County Planning & Zoning
40 11th Street West, Suite 220
Kalispell, MT 59901

RE: FCU-05-07 Modification

Dear Mr. Mussman:

Be advised that I oppose the addition of a concrete and/or asphalt batch plant to the current FCU-05-07 located on 3427 Farm To Market Road. The West Valley Plan does not allow for this type of industry.

Sincerely,



Mark Schwager
PO Box 7634
Kalispell, MT 59904



This is Jim Hanson

May 1-2020

To who this may concern, I recieved a notice from the Board of adjustments about Schillinger Constauction request to be modified to allow the operation of a concrete and asphalt batch plant on exicting gravel extraction operation

FCU-05-07

The problem I have is the site is across the fence from an irrigation water pit that I irrigate from. Im worried about toxic spills getting into the water pit and being put out on the farm land if the plant is to close to the pit. the agreement when the county C.Ked the pit (gravel) was to stop 10' above the high water level. I've seen the water about 8' above the fence in the area

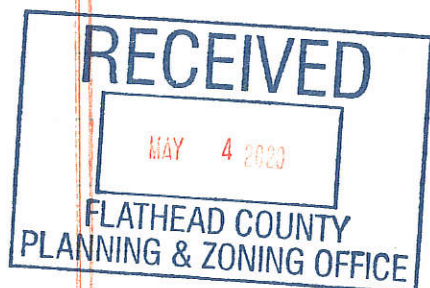
my other thought is the spring run off water washing into the pit from the asphalt Plant.

Im sorry but I abject to it to close to the Pit

FCU-05-07

Thank Jim Hanson

406-250-6168



May 3, 2020

Flathead County Board of Adjustment
Mark Mussman, Planning Director

To Mr. Mussman and all members of the Flathead County Board of Adjustment,

This letter is concerning the request by Rob Koelzer, Schellinger Construction Company to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on the existing extraction gravel operation located at 3427 Farm-to-Market Road. The 160 acres are described as the northwest quarter of section 16, Township 29 North, Range 22 West, P.M.M. Flathead County.

When the Tutvedt's first wanted to open a gravel pit, they sent a document showing where the gravel pit was to be located and how much land would be involved. It seemed like it would not be a serious problem, so we sent our approval in a letter to the planning board.

A few years later, they came to our house again with an expansion proposal. We reluctantly agreed again, and now we regret that decision.

We have just now learned of this latest development of Schellinger's wanting another expansion in a note taped to our mail box by a concerned West Valley resident. There was no notification from Tutvedts nor Schellinger. That seems to us to be sneaky and underhanded! It certainly does not inspire confidence nor cooperation.

The gravel truck traffic is much more than we were lead to believe. We like to walk on Church Drive, where we have lived for over 40 years. Before the several gravel pits around us were put into operation, traffic on Church Drive was light with cars and pickup trucks and sometimes there was an occasional logging truck. Since Church Drive has no shoulder, we must now often take to the ditch to avoid two gravel trucks with trailers that are passing in opposite directions right where we would have been standing! The gravel truck traffic is bad enough at this time, and now they want to add asphalt and/or concrete trucks, too!

In addition, we are very concerned about the emissions stench of an asphalt plant plus the noise, both of which are carried on the wind to the surrounding area. We often smell the pig farm to the northwest of us. That is bad enough. At least that is not the chemicals that an asphalt plant would put into our air!

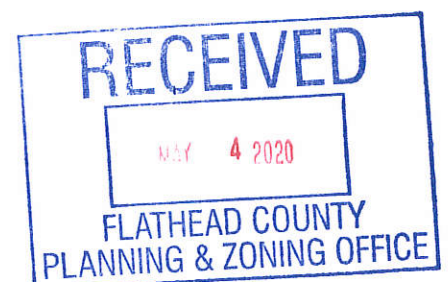
Who knows what damage will be done to the ground water. There was already a nitrite presence in some of the wells near here.

We strongly urge denial for the proposed change in zoning.

Irwin & Judy Bennett

Irwin Bennett
Judy Bennett

1565 Church Drive
Kalispell, Mt
406-257-3175



Mark Mussman

From: Cheryl JURGENS <crjurgens2@gmail.com>
Sent: Monday, May 4, 2020 10:43 AM
To: Mark Mussman
Subject: Postpone board of adjustment meeting

Dear Mr. Mussman, please postpone the may 5 meeting of board of adjustments. Specific to the request for operation of a concrete/asphalt plant at 3427 Farm to Market Road. As a resident of flathead county, I think this request should be postponed so that the public has more time to review the request. It seems as though there are several environmental & regulation issues that need further review before the Board takes action. Thank you.

Cheryl Jurgens
Concerned Citizen

Sent from my iPad



Mark Mussman

From: Randy and Alison Harris <randy.alison.harris@gmail.com>
Sent: Monday, May 4, 2020 11:33 AM
To: Mark Mussman
Subject: please postpone vote

Good morning, it has been brought to our attention that there has been an application by Shellinger Construction submitted to The Zoning Department to allow for a concrete and/or asphalt batch plant on the gravel site at 3427 Farm-To-Market Road, west of Kalispell.

We live at 1898 Church Drive and are very concerned about this new development, for many obvious reasons. We need more information on this action and more specific details of what Schellinger Construction intends to do with this Conditional Use Permit. For example, how large an operation, asphalt or concrete or both, how much traffic, and loads, and how will it affect property value, noise and air quality and also water quality? How will it affect the health of those in the area and the school which is nearby? Since this is zoned as a residential area, can such a plant be prohibited under MCA 72-20-209?

We appreciate your consideration of this request to postpone the vote related to this matter. Please consider the community, and the need for further public knowledge and discourse.

Sincerely,
Randy and Alison Harris
1898 Church Drive
Kalispell MT 59901
406-261-7238



Mark Mussman

From: Tiffany Moloney <tmoloney@krmc.org>
Sent: Monday, May 4, 2020 12:29 PM
To: Mark Mussman
Cc: 'gandrutr@yahoo.com'
Subject: Postponed Vote Request

To Whom It May Concern,

I am writing to you today to request that you postpone the vote regarding the application for a concrete and/or asphalt batch plant on the existing gravel site at 3427 Farm To Market Road. I feel the residents need more information and that the notification process of making residents aware was not thorough. The public has not been given adequate information or time to comment, especially due to the recent COVID-19 restrictions that have been in place.

I oppose the pit for health and safety concerns as well as all the impacts it will have to values within close proximity to it. I am a current owner of a lot on Canola Road. I was not notified and I feel this will impact my property.

Please postpone the vote until COVID-19 restrictions have been lifted through phase 3 OR until July 1, 2020.

Thank you for your time,

Tiffany Moloney

CONFIDENTIALITY NOTICE:

This email and any attachments are intended only for the use of the individual or entity to which it is addressed. This communication is considered confidential, as it may contain privileged or confidential information that is protected by federal or state law. Any unauthorized direct or indirect disclosure, use, printing, alteration or copying of this communication is prohibited and may be unlawful. If you are not the intended recipient or a person responsible for delivering this communication to the intended recipient, you have received this communication in error. If you have received this communication in error, please notify the sender immediately and also notify our Compliance Office by calling 406-752-1742 and delete this communication and any attachments. Any opinions, views, advice or other statements contained in this communication are those of the individual sender and do not necessarily represent those of Kalispell Regional Healthcare. Kalispell Regional Healthcare and its affiliates claim all applicable privileges related to the information contained in or transmitted with this communication. KRHPA616



Mark Mussman

From: Jan Fiaschetti <jfiaschetti@krmc.org>
Sent: Monday, May 4, 2020 12:35 PM
To: Mark Mussman
Subject: Event 281 792 188# /Conditional Use Permit Report #FCU-20-04 / Re: Proposed West Valley concrete/asphalt plant

Dear Planning Office/BOA members, As a resident of the West Valley (at 620 Lone Coyote Trail, off Church Drive & West Valley), I am strongly opposed to the proposed concrete/asphalt batch plant that is being considered. I am asking for the meeting, scheduled for May 5th, 2020 at 6:00 pm, to be postponed until June, 2020. Thank you for your notification/up-dates to the residents in the West Valley who will, sadly , pay the price for such an invasive and potentially dangerous business. Keep me informed re: the status of the meeting.

CONFIDENTIALITY NOTICE:

This email and any attachments are intended only for the use of the individual or entity to which it is addressed. This communication is considered confidential, as it may contain privileged or confidential information that is protected by federal or state law. Any unauthorized direct or indirect disclosure, use, printing, alteration or copying of this communication is prohibited and may be unlawful. If you are not the intended recipient or a person responsible for delivering this communication to the intended recipient, you have received this communication in error. If you have received this communication in error, please notify the sender immediately and also notify our Compliance Office by calling 406-752-1742 and delete this communication and any attachments. Any opinions, views, advice or other statements contained in this communication are those of the individual sender and do not necessarily represent those of Kalispell Regional Healthcare. Kalispell Regional Healthcare and its affiliates claim all applicable privileges related to the information contained in or transmitted with this communication. KRHPA616



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 1:03 PM
To: Mark Mussman
Subject: FW: FCU-20-04 Operations of a Concrete/Asphalt Plant

From: Tkachyk, Ashley <atkachyk@westvalleyschool.com>
Sent: Monday, May 4, 2020 11:55 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04 Operations of a Concrete/Asphalt Plant

May 4, 2020
Flathead County Planning Board,

I am writing to oppose Schellinger Construction modifying their conditional use permit to allow a concrete and asphalt batch plant.

My family is currently having a house built on property just south of the current Schellinger Gravel Pit. I believe that this will have a negative impact on the value of my home. I chose this location in West Valley because it's quiet. Allowing Schellinger to expand their operations only makes more noise and traffic. I have small children that I don't want exposed to the smells and added danger of increased trucking equipment.

I hope you will take my concerns into consideration. At the very least, I ask that you delay this decision until more residents feel comfortable coming to the meeting to express their concerns.

--

Ashley Tkachyk
4th Grade Teacher
West Valley School



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 1:04 PM
To: Mark Mussman
Subject: FW: May 5th meeting

From: CHARLES HUNTER <hunter3490@centurylink.net>
Sent: Monday, May 4, 2020 12:44 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: May 5th meeting

Greetings to the members of the Planning committee.

I am addressing you today in regards of the proposed concrete and asphalt batch plant planned on Farm to Market Rd. I ask that you deny the request to allow this facility to be constructed. A quick internet search will show you that there are ample facilities of this nature already in the valley. Allowing a new one will not add to the valleys tax revenue it would only decrease the earnings of the other facilities already in place. There are also the risks involved in such a facility. There is the potential for contaminating the ground water if a spill or leak were to accrue, not to mention the lowering of the air quality for all those in the surrounding area. If a leak were to accrue it would have the potential to contaminate not only the water under the plant but everyone's water downflow of the plant. Then you should look at the tax ramifications in the area. If you take a close look at the building going on you will find a lot of new houses around the proposed site. If the plant were to be built I'm sure these new houses value would go way down resulting in lower tax's brought in for the valley. I have not even touched on the possible impacts to the farm land around such a plant. I'm sure you will do a study on that before any consideration are made.

I thank you for your time.

Charles Hunter.



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 1:04 PM
To: Mark Mussman
Subject: FW: Concrete and asphalt permit

-----Original Message-----

From: Catherine Kraft <cathy.kraft.54@outlook.com>
Sent: Monday, May 4, 2020 12:48 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Concrete and asphalt permit

I am writing to express my dismay at the idea of allowing additional industrial services to be added to the gravel pit on Farm to Market Rd, just north of the West Valley school. We are already experiencing a sharp uptick in truck traffic coming out of the gravel pit on West Valley Rd north of Church. I take that road frequently and ALWAYS see dump trucks coming and going along Church. I cannot imagine adding 70 additional trucks daily out of the pit on FTM Road. They either have to join the truck parade on Church or use Reserve (which is due for major construction) or head past the school to Three Mile. What a mess! And we are a rural community without sidewalks. Kids ride bikes on these roads, people ride horses and bikes too. West Valley School is super busy, traffic-wise, early a.m. and mid-afternoon. Please. No more. Catherine Kraft 250 Lore Lake Rd Kalispell, MT 59901

Sent from my iPad



Mark Mussman

From: Rita Peiffer <klppfm@hotmail.com>
Sent: Monday, May 4, 2020 2:02 PM
To: Mark Mussman
Subject: Concrete/Asphalt batch plant

I am requesting that you postpone the meeting in regards to Concrete and /or asphalt batch plant on the existing gravel site at 3427 Farm to Market Road. I have breathing issues as does my husband and would like more information on this before it just gets pushed through! And with everything else that is shut down due to Covid 19, I feel this should also wait until there is more information given to the public and All the residences that live here. We already have 2 Gravel pits next to us. Noise and Dust, not to mention the violation of times of operations! Yes, I have been outside at 11:30 at night listening and seeing the lights of whatever they are running in the pit next to Moon Lake. Hours of operation are SUPPOSED TO BE 7 AM TO 7 PM. I also see them running at 6:30 Am. So, we know how they follow compliance! And of course, the extra traffic, noise, and stench of an asphalt plant. We do have children and others with health issues already that will be breathing this and the concrete dust. FYI I strongly oppose this happening at all!! Thanks Rita



May 1, 2020

TO: Mark Mussman, Flathead County Zoning Administrator
Flathead County Board of Adjustment



I am writing to oppose (#FCU-20-04. The applicant wants to amend the original Conditional Use Agreement by removing item # 28. That item expressly prohibits asphalt and concrete batch plants. The original Conditional Use Permits for this site do not include industrial activities.

The existing gravel pit has been deemed acceptable for this residential neighborhood. Several more new homes have been added to the area surrounding the gravel pit. That would indicate acceptance of a gravel operation; the one now in existence.

Enclosed with this letter are photos of some of the surrounding new houses. Immediately south of the existing gravel pit are three new homes: photo # 1 shows one of the homes. The other photos show both new homes and existing homes in the near-by area.

There are eighteen (18) houses within 1200' of the perimeter as marked on pages 2 and 3; labeled **Figure 1** and **Figure 2**.

The West Valley Neighborhood Plan was cited in paragraph 81 of No. DA 06-0173 as a residential area.

The CUP Report does not indicate in either **Figure 1** or **Figure 2**, the newly cleared areas: one in the NW corner of the existing operation; the other opening is further East opening onto Church Drive. The fence has been removed and land has been leveled.

Figure 1 and **Figure 2** do not show the 200' of paved access road mentioned in the permit review.

The road surface of Farm to Market has been steadily deteriorating in the past ten years. The southbound lane shows ample evidence of heavy truck traffic. Rebuilding this road in the near future does not seem likely

Granting of this permit would be illegal.

Charles J. Clark



lot 3 houses SW of pit
photo #1



NO west



west

MAY 04 2020



No west



No west



No west

MAY 04 2020

5. A request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. The property contains approximately 160 acres and can be described as the northwest quarter of Section 16, Township 29 North, Range 22 West, P.M.M. Flathead County, Montana.

All decisions made by the Board of Adjustment are considered final actions. Interested parties are encouraged to attend the meeting to make their views or concerns known to the Board. **Written comments are strongly encouraged and should be received by the Flathead County Planning & Zoning Office, no later than 5:00 pm, May 5, 2020.** Information and documents pertaining to the above requests are on file in the Flathead County Planning & Zoning Office, 40 11th Street West, Ste 220 Kalispell, MT 59901, and may be reviewed during regular office hours, or you may call (406) 751-8200 for more information.

Please note agenda items are subject to change without notice.

Persons with a disability may request a reasonable accommodation by contacting Elaine Nelson at the Flathead County Commissioner's Office at 758-5503 or TTY (800) 335-7592, or call Montana Relay at 711. Requests should be made as early as possible to allow time to arrange the accommodation.

/s/ 
Mark Mussman, CFM[®]
Planning Director



opposed to Asphalt will have
advers impact on neighborhood
From odor Fumes^{smell} and West Valley is Residential
I own a New Built 2020 House
Knowing There is no Asphalt Batch Plant
I have consulted with the county Zoning
Kurt Thompson Dated 5-4-2020
Kurt Thompson 100 Canada Drive Kalispell 59901

Mark Mussman

From: Max Hinrichs <madmax1@mtintouch.net>
Sent: Monday, May 4, 2020 8:13 AM
To: Mark Mussman
Subject: Opposed to Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

To Flathead Planning Board,

I am a residential home property owner at 1850 Church Drive Kalispell, MT. I am in opposition of the proposed Schellinger Construction Company "Section 16 family Partnership" concrete/asphalt plant that is requesting change of its current gravel pit operation. A concrete/asphalt plant is an entirely different operation than the gravel pit that is currently operating. The air pollution created by an expansion to a concrete/asphalt plant operation is very toxic. It can affect air and area water quality. There would also be added excessive noise and truck traffic on Farm to Market Road in the residential property owners' area of the West Valley and the nearby West Valley Public School area. This type of operation would also severely harm property values of West Valley area due to this expanded operation.

Please postpone any further approvals of this operation expansion until further public comment can be submitted.

Thank You,
Respectfully,

Max F. Hinrichs
Residential home property owner
1850 Church Drive
Kalispell, MT 59501



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:15 AM
To: Mark Mussman
Subject: FW: Questions / Comments for May 5, 2020
Attachments: Questions for May 5 20 Flathead County Board of Adjustment.docx



From: W. Leuthe <schatzee2000@gmail.com>
Sent: Monday, May 4, 2020 8:14 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Questions / Comments for May 5, 2020

In Reference to: Request by Rob Koelzer, Schellinger Contruction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition to be modified is to allow the operation of concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road.

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since after the gravel extraction phase the gravel is next processed and manufactured into a hot asphalt by an asphalt batch plant which supports an industry (for economic gain), therefore denial of this request/modification is the only appropriate decision.

The Montana Supreme Court rendered a decision and a Stipulated Consent Decree and Final Judgement was issued on November 22, 2010 in favor of no asphalt batch plant based on the Flathead County Zoning approval of West Valley Zoning, even though the Flathead County Zoning Regulations was amended on March 1, 2010. This was recognized and subject to the conditions listed in Flathead County Conditional Use Permit FCU 05-07a and the Settlement Agreement ordered on 11/22/2010. Therefore, denial of this request/modification is the only appropriate decision.

Additional, This asphalt batch plant request is within a 3-mile radius of additional asphalt batch plants as reference by the requesting company, this adversely impacts resident zoned areas within West Valley and should be taken into consideration by the Flathead Planning Board of a high concentration of batch plants in a relatively small radius in the county creates adverse effects on noise, fumes, odors, traffic and other negative impacts. The concentration of batch plants in one area of the county burdens residents to bear the burden of industrial plants in predominately residential areas. Prudent county planning would be to denial this request and distribute more evenly throughout the county. Again, the only appropriate decision is denial of the request.

QUESTIONS:

Section A: Site Suitability

(1) Adequate Usable Space

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since gravel extraction is processed and manufactured into a hot asphalt which supports an industry (for economic gain), therefore denial of this request/modification is only the appropriate decision.

Section B: Appropriateness of Design

(2) Traffic Circulation

Question #1: Staff Report indicates "an increase of traffic generated from the facility during times of major road improvements needing asphalt. However, this increase in traffic will be relatively short in duration" What is the exact timeframe (months, weeks, days, hours) meant by relatively short in duration? What is the exact increase in truck traffic? Please specify if this is round trip or a one-way trip. Is the truck traffic only on Farm to Market or does this include Church Road? Has the planning committee considered the another gravel extraction company already is using Church Road?

(4) Fencing and Screening

Question #2: There is a fencing break on Church Road approximately ½ mile to the east that is a natural wildlife crossing. Therefore, in violating of the existing conditional permit rendering the current permit null and void. When will contiguous fencing be put into place?

Question #3: No screening berms to the north parallel to Church Road, to the south or to the east. Screening berms only on the west side of the property parallel to Farm to Market Road. Therefore, in violating of the existing conditional permit. What is the specific plan for additional screening berms?

Question #4: Screening of trees is non-existent and merely planted twigs. This provides zero screening or noise mitigation. How will company mitigate the noise?

(5) Landscaping

Question #5: Lack of contiguous berms to north, east and south with prevailing winds from southwest to northeast. Therefore, in violating of the existing conditional permit. What is the noxious weed infestation specific plan?

Section D: Neighborhood Impact

West Valley Plan/Zone indicates: "Industrial use should not be permitted except those accessory to normal farm operations". Clearly, since gravel extraction is processed and manufactured into a hot asphalt which supports an industry (for economic gain), therefore denial of this request/modification is only the appropriate decision.

This asphalt batch plant request is within a 3-mile radius of additional asphalt batch plants as reference by the requesting company, this adversely impacts resident zoned areas within West Valley and should be taken into consideration by the Flathead Planning Board of a high concentration of batch plants in a relatively small radius in the county creates adverse effects on noise, fumes, odors, traffic and other negative impacts. The concentration of batch plants in one area of the county burdens residents to bear the burden of industrial plants in predominately residential areas. Prudent county planning would be to denial this request and distribute more evenly throughout the county.

(1) Excessive Traffic

Question #5: 12-hours of operations adversely impacts traffic in residential zoned west valley, especially as school ends with buses as well as at approximately 500pm when a natural spike in car vehicle traffic increases due to residents ending their work-day. What is the specific heavy truck traffic frequency increase to Farm to Market Road? Church Road is already used by another gravel extraction company. What is the timeframe to begin to use Church Road?

(2) Noise and Vibration

Question #6: How do berms decrease noise, when the berms are not contiguous? Twigs are not sufficient to mitigate noise. What is the specific plan to mitigate the noise?

(3) Smoke, Fumes, Gas, Odors

Question #7: What is your specific plan to mitigate odors? Does your operations consist of a baghouse? If so, what type? If not, why not?

Question #8: What days of the week and what times of day do your operations create the most noxious odors? During increase demand for asphalt, does this impact increase the days of week and times of day? Are these during summer months when most residents are outside with their animals? How does this noxious odor affect the migration of birds in the spring? What is the mitigation plan to minimize these odors?

Question #9: As indicated by request, truck fumes will increase. Recommend decreasing to 8-hours of operations to mitigate. How will company mitigate these fumes?

Question #10: How many diesel fired engines / generators will be used on site per hour and day?

(5) Inappropriate Hours of Operations

Question #10: Hours of operations are 12 hours a day; including 5-hours on Saturday are not normal business hours in residential and agriculture zoned areas creating additional unnecessary fumes, noise, and odors with adverse impact to residential and animals. Recommend mitigation to normal business (8 hour day) for operations from 800am to 400pm so residential areas can be outside.

Thank You,

Jeff and Wendy Peterman

3625 Farm to Market Road

MAY 04 2020

In Reference to: Request by Rob Koelzer, Schellinger Contruction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition to be modified is to allow the operation of concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road.

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MAY 04 2020

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MAY 04 2020

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MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 9:25 AM
To: Mark Mussman
Subject: FW: West Valley Gravel Pit

From: Kim Davis <wkimd123@centurytel.net>
Sent: Monday, May 4, 2020 9:23 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley Gravel Pit



Dear Mr. Mussman,

We have put a letter in the mail to the Board of Adjustment and also sent a message through the website. We do not want to be a bother, but we also would like to be sure that our concerns about changing the restrictions on the West Valley gravel pit on Farm to Market Road. The letter we sent is as follows:

W. Kim and Janet Davis
200 Brookside Trail
Kalispell, MT 59901

Dear Flathead County Board of Adjustment:

As residents of West Valley and an active part of the community members that came together to produce the West Valley Neighborhood Plan, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow "asphalt and concrete operations". This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The conditional use permit that was allowed was specific to strictly gravel extraction. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. We understand the the County has changed the definition of "gravel extraction". That may work in other areas where more industrial type operations are permitted, but West Valley remains an agricultural and residential community. The plan specifies "Industrial uses should not be permitted except those accessory to normal farm operations".

A disturbing fact about this proposal is that it is coming to the Board of Adjustment and did not get the chance to be heard by the community at the West Valley Advisory Committee meeting. We know that the Advisory Committee meeting had to be cancelled due to COVID-19 concerns, but it doesn't seem appropriate that the proposal automatically gets to go before the Board of Adjustment.

We would ask that you not allow this change to the permit that was issued, which prohibited asphalt and concrete batch plant operations.

Thank you very much for your time and effort in this matter, and thank you for your service to the community.

Sincerely, W. Kim Davis Janet Davis

Thank you very much for your time Mr. Mussman. Take Care and Stay Safe.

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 9:44 AM
To: Mark Mussman
Subject: FW: Contact Message

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Monday, May 4, 2020 9:43 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message



Contact Inquiry

The information below is being sent from your website.

Name:	Reta Sweeney
Email:	mtsweeneys@hotmail.com
Subject:	Tutvedt-Schellinger Gravel Pit
Message:	<p>Flathead County Planning Board: I spent some time today reading the specific sections of the Flathead County Zoning Regulations which apply to the WV West Valley Zoning District wherein the Tutvedt-Schellinger organization seeks to expand their existing gravel mining activity to encompass the manufacture of asphalt concrete for roads, driveways and parking lots as well as traditional portland cement concrete. Between the recent InterLake article and Mr. Corey Hill's Letter to the Editor in the same edition, the numerous reasons for you to reject this latest appeal are well documented. I reread those zoning use sections, both permitted and conditional, and as I am sure you realize, the words "asphalt" and "concrete" are not to be found therein. "It would seem" therefore, that to change the zoning for these applicants is just as outrageous as whatever was done to give away our groundwater to the Creston bottling outfit. But the main reason for this email is that the notification of the telephonic meeting was skimpy at best being limited to a legal notice in the InterLake and whatever other publications that you use, and speaking for most newspaper readers, legal notices are seldom read at best. Also a majority of Flathead County residents are not subscribers to the InterLake and learn of major local issues from their informed friends or sometimes electronically. Therefore I am pleading with you to postpone Tuesday's public hearing until the COVID-19 emergency is over in this county and public meetings are once again allowed. After all, there is no asphalt or concrete shortage that I am aware of and furthermore your own COVID-19 website reports that documented new virus cases in Flathead County as of today (Sunday, May 3) have been at zero for more than 14 days, which removes at least one legal impediment from holding public hearings. In conclusion, my relatives settled in the West Valley over a century ago (along with probably the Tutvedts, Hedstroms, and others), I have lived here since 1965, and it would be a major tragedy to allow further industrial inroads into an area currently comprising some of the most spectacular views from residential lots in the USA as well as the continued use of the land for various farming activities. Sincerely, Reta Sweeney</p>

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 9:17 AM
To: Mark Mussman
Subject: FW: Contact Message



From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Monday, May 4, 2020 9:17 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name:	W. Kim and Janet Davis
Email:	wkimd123@centurytel.net
Subject:	West Valley Gravel Pit
Message:	<p>W. Kim and Janet Davis 200 Brookside Trail Kalispell, MT 59901 Dear Flathead County Board of Adjustment: As residents of West Valley and an active part of the community members that came together to produce the West Valley Neighborhood Plan, we would like to voice our concerns about the proposed changes to the operation at a gravel pit located at 3427 Farm to Market Road. The change requested would allow "asphalt and concrete operations". This change would not at all be in line with the intent of the West Valley Neighborhood Plan. The conditional use permit that was allowed was specific to strictly gravel extraction. The community wrestled with allowing the conditional use permit for quite some time and placed a number of requirements on the operation before going ahead with the conditional use permit. We understand the the County has changed the definition of "gravel extraction". That may work in other areas where more industrial type operations are permitted, but West Valley remains an agricultural and residential community. The plan specifies "Industrial uses should not be permitted except those accessory to normal farm operations". A disturbing fact about this proposal is that it is coming to the Board of Adjustment and did not get the chance to be heard by the community at the West Valley Advisory Committee meeting. We know that the Advisory Committee meeting had to be cancelled due to COVID-19 concerns, but it doesn't seem appropriate that the proposal automatically gets to go before the Board of Adjustment. We would ask that you not allow this change to the permit that was issued, which prohibited asphalt and concrete batch plant operations. Thank you very much for your time and effort in this matter, and thank you for your service to the community. Sincerely, W. Kim Davis Janet Davis</p>

Mark Mussman

From: Bob & Lori <bob_lori@montanasky.net>
Sent: Saturday, May 2, 2020 11:14 AM
To: Mark Mussman
Subject: Proposed concrete/asphalt batch plant on Farm to Market

To Whom it May Concern;

We are residents of Tall Pine Ridge, approximately 1 mile from the gravel pit at 3427 Farm to Market. We understand there is an application for a concrete asphalt batch plant at that location and would like to know more about it since information regarding this to the general public has been inadequate. We need more time to assess the potential ramifications to the home owners in the area since this is zoned as residential and an operation that mines sand and gravel or an operation that mixes concrete or batches of asphalt may be reasonably conditioned or prohibited in a geographic area zoned as residential. There is a school approximately 2 miles away from this location!

Specifics and technical details would certainly be appreciated since this proposition stands to have an impact on the traffic flow on Farm to Market, air and water quality and resident's respiratory health. We ask that the vote be postponed until June. The public has not been given adequate information or time for comment!

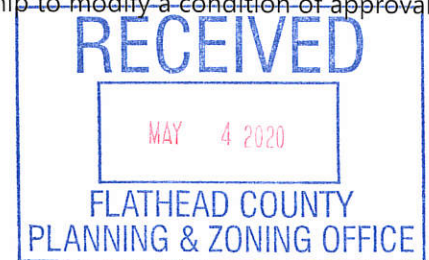
Thank you,

Lori Bell Safford and Robert Safford
565 Tall Pine Ridge
Kalispell, MT.
59901



Mark Mussman

From: Carol Marino <cjmarino36@gmail.com>
Sent: Saturday, May 2, 2020 12:17 PM
To: Planning.Zoning; Mark Mussman
Subject: Re: Conditional Use Permit FCU-20-04 request by Rob Koelzer, Schellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07.



May 2, 2020

Good Day,

As residents of the West Valley, we are expressing our disapproval of this proposal by Mr. Koelzer of Schellinger Construction to, yet again, try to wheedle a concrete and/or asphalt batch plant under violation of the protected West Valley Neighborhood Plan.

This same construction company unsuccessfully tried to get an concrete/asphalt batch plant approved in June 2005 and it was firmly denied.

The West Valley Neighborhood Plan was legally established and adopted by the Kalispell City Council April 7, 1997 (Resolution No. 4323) and by the Flathead County Commissioners April 9, 1997 (Resolution No. 955AA). Please refer to the attachment).

https://flathead.mt.gov/planning_zoning/documents/WestValleyNeighborhoodPlan.pdf

Quoting from the West Valley Neighborhood Plan document: "The land use character of the West Valley is primarily "Residential," "Agricultural," and "Forest."

Again quoting from same document at the time of its creation, "existing agricultural uses include a saw mill, gravel operation, and various agriculture-dependent uses, such as mint stills."

Most importantly the Plan states: "Industrial uses should not be permitted except those accessory to normal farm operations."

Let's state the obvious: a concrete/asphalt batch plant is a non-agricultural, heavy industrial use of said property.

Furthermore, under its OPEN SPACE clause the West Valley Neighborhood Plan emphasizes that "as an important philosophy to help maintain open space in the West Valley issues include protecting water quality and air quality."

Since 1999, LHC Inc. has been operating an asphalt batch plant and serving Flathead County's needs just 5 miles from the gravel site at 3427 Farm-To-Market Road. Asphalt plants are hazardous to underground aquifers and wells and to the air we breathe... and they are stinky. Studies have affirmed exposure to asphalt fumes have been connected to lung, stomach and skin cancers.

In the 15 years since Schellinger initially made and was denied a permit to allow a concrete and/or asphalt batch plant in the West Valley the area has grown and is continuing to grow exponentially. West Valley School is just 2 miles away.

Where are the traffic studies?

Where are the environmental studies?

Let's not be fooled by this same old request. Flathead County deserves better. West Valley residents deserve better.

Please deny or, at the very least, postpone the voting until late June to provide West Valley residents an opportunity to obtain more information to protect our health, our community, and our property values.

Thank you for your consideration,

Carol and Jim Marino

1555 Church Drive

Kalispell, MT 59901

MAY 04 2020

Mark Mussman

From: Natalie Ten Eyck <natteneyck@yahoo.com>
Sent: Monday, May 4, 2020 9:10 AM
To: Mark Mussman
Cc: Jason Ten Eyck
Subject: Board of Adjustment Meeting for May 5, 6pm - REQUEST TO POSTPONE

Good Morning Mr. Mussman,

I am writing today to request, among many of my neighbors, that you postpone the Zoning Department WebEx meeting for May 5, at 6pm that will be reviewing the permits submitted by Schellinger Construction that would allow for a concrete/asphalt batch plant in West Valley.

My family and I reside at 1826 Church Drive, adjacent to the existing gravel pit on Farm to Market Road, and would like more information regarding these permits and its impact on our area. I am asking that you postpone your review and vote until at least June so we may have more time to get specifics and details, and potentially petition the permits if needed.

I may be reached via email or at 360-852-3357 for any questions or concerns. Thank you for your time and consideration.

Best in Health,

Natalie Ten Eyck



Mark Mussman

From: TerryRhonda Longenecker <trlongneck@gmail.com>
Sent: Monday, May 4, 2020 8:46 AM
To: Mark Mussman
Subject: West Valley zoning

ATTENTION Plannning Office and BOA:

I request that Planning Office postpone vote on request for batch plant until June. I did not even receive a notice of this application even though I live very close to the gravel pit and have always received notices in the past.

Thank You,

Terry and Rhonda Longenecker
3230 Farm to Market Rd
Kalispell, MT



Mark Mussman

From: Babby M <munchybear@live.com>
Sent: Monday, May 4, 2020 8:54 AM
To: Mark Mussman
Subject: FCU-05-07

Mark,

This request is in follow up to my email to you and the Board of Adjustment sent May 1st.

Due to Covid -19's overwhelming impact to citizens of the Nation, Montana and the Flathead Valley, we respectfully request that you and the Flathead Planning Zoning and Flathead County Board of Adjustment postpone the request to modify a condition FCU-05-07 for a concrete and / or asphalt batch plant on existing gravel extraction operation located at 3427 Farm to Market Road until June 2020.

Sincerely ,

Babby McCartney and Klaus Kleinke
3603 and 3575 Farm to Market Road



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:58 AM
To: Mark Mussman
Subject: FW: FCU-20-04

From: jeaolson@cyberport.net <jeaolson@cyberport.net>
Sent: Monday, May 4, 2020 7:59 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>; jeanne Olson <jeaolson@cyberport.net>
Subject: FCU-20-04

There were good reasons for prohibiting asphalt/concrete batch plants in this Farm-to Market gravel pit on Tutvandt land in the original permit. Foremost is the possibility of contamination of the shallow aquifer in this area upon which many area residents depend for their water. Water is our most precious resource and needs to always be protected.

Noise, dust, air pollution, increased traffic will all impact every resident of this rural residential area of West Valley as well as the students of West Valley school for the sole benefit of the owners. If this asphalt/concrete plant is approved what other industrial use is next? The intent of the West Valley Plan was to preserve West Valley as a rural residential, agricultural, and forestry area. Industrial and large commercial uses were specifically forbidden or strongly discouraged.

We urge you to leave the prohibition on asphalt/concrete batch plants in place on this gravel pit.

Thank you.

Dan and Jeanne Olson
160 West Valley Acres
Kalispell, MT 59901



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:00 AM
To: Mark Mussman
Subject: FW: Opposed to Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

From: Max Hinrichs <madmax1@mtintouch.net>
Sent: Monday, May 4, 2020 8:00 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Opposed to Schellinger concrete/asphalt plant 3427 Farm to Market Road kalispell, MT

To Flathead Planning Board,

I am a residential home property owner at 1850 Church Drive Kalispell, MT. I am in opposition of the proposed Schellinger Construction Company "Section 16 family Partnership" concrete/asphalt plant that is requesting change of its current gravel pit operation. A concrete/asphalt plant is an entirely different operation than the gravel pit that is currently operating. The air pollution created by an expansion to a concrete/asphalt plant operation is very toxic. It can affect air and area water quality. There would also be added excessive noise and truck traffic on Farm to Market Road in the residential property owners' area of the West Valley and the nearby West Valley Public School area. This type of operation would also severely harm property values of West Valley area due to this expanded operation.

Please postpone any further approvals of this operation expansion until further public comment can be submitted.

Thank You,
Respectfully,

Max F. Hinrichs
Residential home property owner
1850 Church Drive
Kalispell, MT 59501



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:00 AM
To: Mark Mussman
Subject: FW: West Valley neighborhood comments on #FCU-20-04

-----Original Message-----

From: Family <mtbernts8985@gmail.com>
Sent: Sunday, May 3, 2020 9:06 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: West Valley neighborhood comments on #FCU-20-04

Planning and Zoning Office, Flathead County:

We are writing to express our concern about increasing the scope of the usage permit at the gravel pit on Farm to Market Road. At the time of it's approval originally, it was quite controversial even with a very limited scope of simple removal and crushing of gravel. The increased scope to include asphalt or cement batch processing should get wider review and public comment.

As neighbors to the plant, we are concerned about local water supply and quality, increased traffic and noise (especially around West Valley School), and damage to the road surface from from an even higher concentration of heavy truck traffic. As a regular drivers on Church, Reserve, and Farm to Market Roads, we already see safety concerns around numerous large trucks on our narrow country roads.

We think the original scope of permitting should be maintained, not expanded to include concrete and asphalt batch operations.

Best Regards,
Susan and Marvin Bernt
294 Lone Fox Trail
Kalispell, MT



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 8:00 AM
To: Mark Mussman
Subject: FW: Permit for asphalt plant

-----Original Message-----

From: Gmail <nannyosler@gmail.com>
Sent: Sunday, May 3, 2020 6:25 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Permit for asphalt plant

I would like to ask the committee to please turn down this request for expansion of the gravel pit on Farm to Market Road. The amount of traffic increase in that area would absolutely be a huge concern. I worked at W.V. School for 30 years and I have seen the normal traffic grow and grow. Much concern over the students and parents with all the added truck traffic. The added noise, smell and traffic would be devastating to all those home owners and their families. There's got to be a better choice of where to have this plant. Thank you for reading my concerns regarding this modification to the existing permit. Nancy Osler

Sent from my iPhone



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:59 AM
To: Mark Mussman
Subject: FW: Contact Message

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, May 3, 2020 5:32 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	George Allen
Email:	Georgehenryallen@hotmail.com
Subject:	Tutvedt gravel pit/mine
Message:	Hello I live along McMannamy Draw and myself and my family oppose the mine and gravel pit that is proposed. We have small children that we try and walk with to the west valley school to play, but there is no sidewalk and this can get even more dangerous if there is increased truck traffic along McMannamy Draw. Please reconsider. Thank you!



Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: Flathead County Board of Adjustment meeting May 5 agenda item #5

From: Walter Kroemer <kroemer@montanasky.net>
Sent: Sunday, May 3, 2020 3:43 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Flathead County Board of Adjustment meeting May 5 agenda item #5



----- Forwarded Message -----

Subject: Flathead County Board of Adjustment meeting May 5 agenda item #5

Date: Thu, 30 Apr 2020 12:26:30 -0600

From: Walter Kroemer <kroemer@montanasky.net>

To: planning.zoning@flathead.mt.gov

Update to previous email ...

RE: A request by Rob Koelzer, Scliellinger Construction Company, for Section 16 Family Limited Partnership to modify a condition of approval of FCU-05-07. The condition requested to be modified is to allow the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. The property contains approximately 160 acres and can be described as the northwest quarter of Section 16, Township 29 North, Range 22 West, P.M.M. Flathead County, Montana.

We live approximately ½ mile from this site at 1979 Church Drive. We strongly oppose modifying the current permit to allow the operation of a concrete and/or asphalt batch plant at this site. Much of the surrounding property (south, west and north) is increasingly residential. Changing the use of this property to add a concrete and/or asphalt batch plant would negatively impact our neighborhood due to the noise, emissions and traffic created by the new use and would also negatively impact the values of our land. We request the Board deny this modification to the current permit.

Today's paper added additional details which create additional comments:

History -- The property is zoned "WV West Valley," defined as "a district to promote orderly growth and development in the West Valley area consistent with the community vision statements."

In 2005 a conditional use permit was granted for gravel extraction and specifically prohibited asphalt and concrete batch plant operations.

In 2010 the county added asphalt, wash and concrete plants to the definition of "gravel extraction".

If the Board is to looking to make any changes, it needs to vacate the old conditional use permit as it specifically excluded asphalt and concrete batch plant operations which are now part of the new definition of gravel extraction. This would then require to owner to stop the current operation and again request a special use

permit based upon the current definition of "gravel extraction".

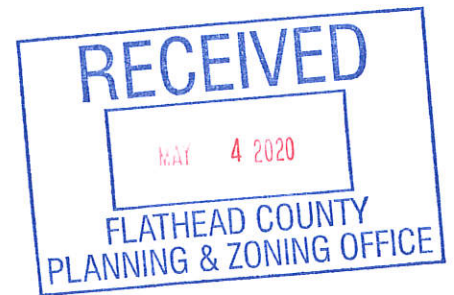
As previously stated, we strongly oppose modifying the current permit to allow the operation of a concrete and/or asphalt batch plant at this site. We believe the current request is a backdoor means of skirting the zoning process to allow a use that was specifically excluded in the original conditional use permit. This is not consistent with the area zoning which is to promote orderly growth and development in the West Valley area consistent with the community vision statements.

Please reply to this message to confirm that it has been received. Thank you!

Walter & Christine Kroemer
1979 Church Drive
PO Box 2958
Kalispell, MT 59903

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: Contact Message



From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, May 3, 2020 2:35 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry	
The information below is being sent from your website.	
Name:	PJ Rismon
Email:	pjrismon@gmail.com
Subject:	Request for asphalt and concrete plants on Farm to Market Rd.
Message:	Hello, I and my husband were unpleasantly surprised to read in today's paper that the County Board of Adjustment is about to consider a request to allow an asphalt and concrete plant to be added to the gravel pit located on the property owned by the Tutvedt family near the corner of Church Drive and Farm to Market Road. We live just South of the location and are very concerned about the possible negative environmental effects such as air and water pollution. In addition, the increased large truck traffic would mean additional noise, dust, diesel exhaust and safety issues. It's dangerous and annoying to have the current gravel trucks traveling to and from the aforementioned gravel pit; we certainly don't want the additional heavy truck traffic in our residential neighborhood. Please deny the request to allow a concrete and asphalt plant in the above-mentioned location. Thank you. Peggy Rismon Paul Beckley

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: Hearing on asphalt/batch plant

From: wvacres@aol.com <wwacres@aol.com>
Sent: Sunday, May 3, 2020 2:30 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Hearing on asphalt/batch plant



We are in strong opposition to this zoning being changed to allow Bruce Tutdvet to create a batch plant on the property on Farm to Market road. The whole process feels untrustworthy, as we have received little notice of this proposal, and it overturns zoning that we have fought hard to maintain. West Valley is not suited to this industrial development, as it is near to school, produces dangerous and noisy traffic and can pollute the clear skies. Please do not change the zoning to allow Mr. Tutdvet to create this nightmare for the residents of West Valley.

Barbara Myers
Edward Myers
180 West Valley Acres
Kalispell, Montana

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: FCU-20-04 Operations of a concrete/ashphalt plant

From: Marcie <build4u8@gmail.com>
Sent: Sunday, May 3, 2020 8:31 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FCU-20-04 Operations of a concrete/ashphalt plant

Flathead County Planning,
Dated May 3rd,2020



I am writing in objection of the county allowing Schellinger Construction to modify their conditional use permit to allow a concrete/asphalt batch plant.

I am the owner of a lot just south of the Schellinger Gravel pit currently and am in the process of purchasing another. I also live 1 mile down the road off Farm to Market.

The planning and zoning have strived to keep the West Valley area a rural residential farming area and this goes against that.

The amount of increased traffic would adversely effect the safety of the residents in the West Valley area as well as the smell and noise generated by this kind of plant. The smell alone when batching asphalt is toxic and not safe not to mention the extra amount of noise generated. The business is open 7 am to 7 pm Monday through Friday and a half day on Saturday making it hard for the residents in close proximity to have very limited peace with extended noise from adding that kind of facility to a long work week. The amount of trucks coming and going will impact the school bus routes as well as the first responders calls to the residents in the area. We purchased in this beautiful area because of the open enjoyable space that it has been, and appreciate the zonings plans to keep it that way . I understand the growth in Kalispell has changed the way we live but changing this conditional use permit to allow this in a residential area is not wise. This is not a commercial area. The West Valley Neighborhood plan on page 18 states "allow opportunities for gravel extraction: and Industrial uses should not be permitted except those accessory to normal farm operations".

Please DO NOT allow this modification that is expressly prohibited from their conditional use permit.

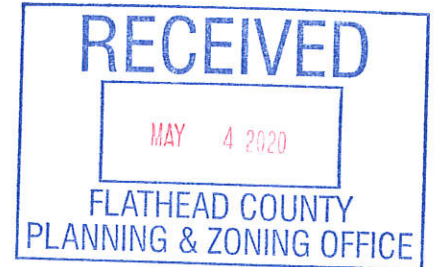
At the very least, due to the COVID 19, please post pone any decision until the residents of West Valley that will be adversely effected by this decision have the ability to do a face to face meeting sharing their concerns for their safety and well being.

Sincerely,
Marcie Macura

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: Contact Message

From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, May 3, 2020 8:19 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message



Contact Inquiry

The information below is being sent from your website.

Name:	Rachel Grant
Email:	rachelg7@hotmail.com
Subject:	Asphalt/Cement Plant West Valley
Message:	<p>To the planning and zoning board of Flathead Valley, I am a resident of West Valley. I was raised on the north end of Farm to Market Road, and currently I reside near West Valley Elementary School. As a long time resident of this area, I am submitting my fervent and wholehearted opposition to the proposed asphalt/cement plant seeking approval on Farm to Market Road. This type of industrial operation would not only be a blight on our landscape, it would contradict the residential zoning of the area and create harmful emissions polluting the local environment and water sources. This area of the valley is for family homes and agricultural use. We do not want an industrial plant in our neighborhood. The effects would be devastating to our local environment. Please do not grant the requested permit for this expansion to the existing gravel pit. Thank you. Rachel Grant (406) 471-1613</p>

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:58 AM
To: Mark Mussman
Subject: FW: asphalt plant comment



From: Robert Nadvornick <nad@purewestmt.com>
Sent: Sunday, May 3, 2020 8:05 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: asphalt plant comment

I have been selling real estate in the Flathead Valley for over 44 years. I can't imagine the negative impacts of another asphalt plant to the residents of West Valley and surrounding areas. The smell of the plant and the environmental impacts to the aquifer will negatively effect many more people than just the properties nearby. When the wind blows, the smell will travel farther than just over the subject property. Is there any guarantee the water quality won't be effected?

While the percentage of traffic may seem minimal, large trucks have more noise, wear and tear than a typical car.

West Valley School will see additional disturbance from truck traffic.

Please do not allow an asphalt plant to ruin our beautiful valley.

Sincerely,

BOB "NAD" NADVORNICK
BROKER

PURE WEST REAL ESTATE
17 1ST AVENUE EAST
KALISPELL, MONTANA 59901

OFFICE: 1-406-751-5644
CELL : 1-406-885-2700
EMAIL: Nad@purewestmt.com

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:57 AM
To: Mark Mussman
Subject: FW: BOA Meeting May 5 2020 Agenda item E5
Attachments: Gravel BOA Letter.docx



From: Greg Wilson <gmkwilson90@gmail.com>
Sent: Saturday, May 2, 2020 3:26 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: BOA Meeting May 5 2020 Agenda item E5

Attached please find our letter concerning the modification to the condition of approval for the gravel pit at 3427 Farm to Market Rd. Thank you for your attention.

Mary Kay and Greg Wilson

To: Flathead County Board of Adjustment
Re: FCU 20-04
April 30, 2020

Mary Kay and Greg Wilson
288 Shepherd Trail
Kalispell, MT



We realize due to coronavirus constraints that public input on this decision was abbreviated, and the West Valley Land Use Advisory Committee was unable to provide their recommendation concerning this proposed modification. That being said, it seems like a prudent thing to do would be to postpone any decision regarding this modification until more public comments and questions can be addressed.

Some of the concerns that are not addressed in the application have to do with what size of concrete and asphalt batch plants are being proposed. What is the volume of material anticipated to be processed per day? What type of asphalt plant is being constructed? There are too many unanswered questions for the board to make an informed decision on this modification, and moving from a gravel extraction to concrete and asphalt processing plants is no small change.

In addition, while there is currently an irrigation well on the property, it seems like a concrete batch plant requires a huge jump in water usage, and that is not spelled out in this application.

The increase in traffic from this plant is said to be "relatively short in duration" (Conditional Use Permit Report (#FCU-20-04), page 7, C 6), but nowhere is that stipulated in the application. Could the Board of Adjustment make some time frame, or put some boundaries on what this 'duration' could mean?

In summary, several questions and details are unaddressed at this point, requiring additional time for comment and investigation. We respectfully ask this Board to delay making a decision until further discussions can occur.

Mark Mussman

From: Larry Tahler <larry@tahler.com>
Sent: Saturday, May 2, 2020 7:05 AM
To: Mark Mussman
Cc: Larry Tahler; Randy Odell; Ed Crosby
Subject: Zoning for a concrete and/or asphalt batch plant in West Valley

To Whom It May Concern,

As a long time resident of the West Valley, living at 2860 Farm To Market Road. I ask that the process be temporarily suspended until residents of the area can study this further. Although I can't speak for other residents of the area, I am concerned about the long term prospects of this application being approved.

Please advise.

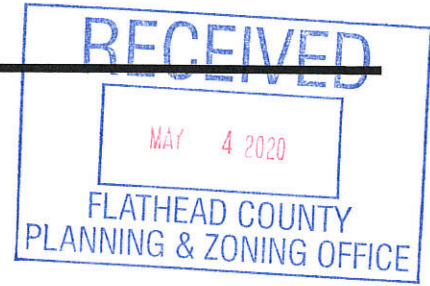
Sincerely,

Larry Tahler
2860 Farm to Market Road



Mark Mussman

From: Nick Thiel <thielni@gmail.com>
Sent: Saturday, May 2, 2020 12:22 PM
To: Mark Mussman; Planning.Zoning
Subject: Asphalt and Concrete Plant on Farm to Market



I live in West Valley Pines and am vehemently opposed to violating the existing West Valley Neighborhood Plan. I am also opposed to violating the stated purpose of the Flathead County Zoning as stated on its own website.

- The purpose of zoning is to promote the public health, public safety and general welfare of the community;
- To conserve natural resources;
- To provide adequate light and air;
- To facilitate the provisions for public works requirements such as water, sewer, and environmental needs;
- To ensure orderly development according to the Growth Policy adopted for all parts of the County;
- To regulate and restrict the height, number of stories, and buildings and other structures, the percentage of a lot that may be covered by impervious surfaces, the size of yards and other open spaces, the location and use of buildings, structures and land for trade, industry, residences, and/or uses; and
- The protection of the aesthetics resources of the County.

Nothing about the proposal of yet another asphalt batch plant in west valley complies with these objectives.

Furthermore, the stated objectives of the West Valley Neighborhood Plan are in direct objection to this proposal as enumerated below.

With respect to Open Space, page 18:

Open space is a description of land that is either natural or "open" in the sense that it is undeveloped.

The west valley plan exists to preserve open space.

With regard to Agriculture/Forestry Policies, Page 23.

Discourage conversion of prime agricultural soils to non-ag uses.

With regard to Commercial/Industrial Policies, page 24 of the West Valley Neighborhood Plan states the following:

Legally existing commercial or industrial uses shall be "grandfathered".

This clearly exists to extinguish the expansion of the number of sites as well as expansion of sites.

I could continue to state additional quotes from the instated documents providing guidance and basis for law abiding decisions. These quotes are but a sampling of the principles that demonstrate the violation of these premises contained by the industrial batch plant and multi story cement plant proposal.

Additionally, common sense is aware that the amount of heavy traffic on Farm to Market road with virtually no paved shoulder or safe egress to avoid an accident is a recipe for death. Nor is the road engineered for those kinds of loads, especially in the spring when the water table is high and the soils become less stable.

The additional heavy vehicle traffic adds risk to an already dangerous intersection that includes our children at West Valley school. We have learned from the accident that inspired the creation of the round about at Glacier High school that kids and heavy trucks may likely result in death.

If you have any regard for these community driven and legally adopted rules, or the lives of our children please do the responsible thing and deny this application.

Nicholas Thiel
112 East Bluegrass
Kalispell, MT 59901
775.450.6890

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:57 AM
To: Mark Mussman
Subject: FW: Flathead County Board of Adjustment Public Hearing

From: Judy Bennett <judybennett640@gmail.com>
Sent: Saturday, May 2, 2020 2:27 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Flathead County Board of Adjustment Public Hearing



To Whom it may concern:

It has come to our attention that a Zoning Department meeting has been planned for May 5th via WebEx. We are requesting that this meeting be postponed until a time where we can attend in person. We do not know how to do a web/telephone call and feel that we are at a disadvantage because of that fact; therefore we can not be represented, make our opinions known, nor participate in any discussion.

Thank you,

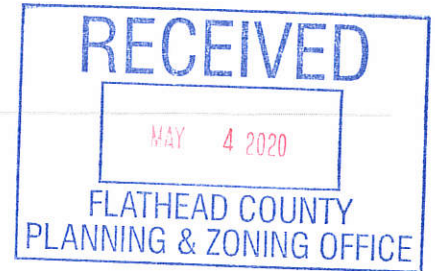
Irwin and Judy Bennett

1565 Church Drive
Kalispell, MT 59901
406-257-3175

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:56 AM
To: Mark Mussman
Subject: FW: Comments for Board of Adjustment meeting on May 5th

From: Roger L. Brewer <rbrewer@fvcc.edu>
Sent: Saturday, May 2, 2020 2:23 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Comments for Board of Adjustment meeting on May 5th



The following comments are from Roger and Marty Brewer, 3025 Farm to Market Rd. They regard FCU-20-04, a request for a change in the conditional use permit requirements from FCU-05-07 which was adjudicated and specifically prohibited an asphalt/concrete batch plant at that location.

We would ask two things of the Board of Adjustments

- 1) That the consideration of FCU-20-04 be tabled until such time as the public has the right to attend and participate in the discussion other than in a virtual format which will make participation by many community members very difficult and in some cases impossible.
 - 2) If the proposal is not tabled, we would ask that the Board deny the request for the following reasons:
 - a) The area of the proposal is increasingly residential and the existence of a commercial venture of this type conflicts with the nature of the community.
 - b) The findings of fact refer to the fact that only a 1.5% increase in traffic on Farm to Market Rd. would result however that discounts the fact that the heavy truck traffic which currently exists has caused significant deterioration of the road surface and this use would only exacerbate that problem.
 - c) There is already a concrete batch plant within approximately 5 miles so there is no community need for an additional plant that close.
 - d) The findings of fact imply that the effects of the fumes and odor would not be significant because the nearest residence is 1600 feet away from the proposed site. I wonder what makes the evaluator think the fumes and odor wouldn't spread much further than that.
 - e) The decision of the courts in the previous case specifically prohibited the batch plant for a reason so what justification is there for changing that restriction other than the desire of the property owner and Schellinger to make more money at the expense of the West Valley community members.
- Thank you for your consideration.

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:56 AM
To: Mark Mussman
Subject: FW: Asphalt and Concrete Plant on Farm to Market



From: Nick Thiel <thielni@gmail.com>
Sent: Saturday, May 2, 2020 12:22 PM
To: Mark Mussman <mmussman@flathead.mt.gov>; Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt and Concrete Plant on Farm to Market

I live in West Valley Pines and am vehemently opposed to violating the existing West Valley Neighborhood Plan. I am also opposed to violating the stated purpose of the Flathead County Zoning as stated on its own website.

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Furthermore, the stated objectives of the West Valley Neighborhood Plan are in direct objection to this proposal as enumerated below.

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Additionally, common sense is aware that the amount of heavy traffic on Farm to Market road with virtually no paved shoulder or safe egress to avoid an accident is a recipe for death. Nor is the road engineered for those kinds of loads, especially in the spring when the water table is high and the soils become less stable.

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If you have any regard for these community driven and legally adopted rules, or the lives of our children please do the responsible thing and deny this application.

Nicholas Thiel
112 East Bluegrass
Kalispell, MT 59901
775.450.6890

MAY 04 2020

Mark Mussman

From: Mary Fisher
Sent: Monday, May 4, 2020 7:55 AM
To: Mark Mussman
Subject: FW: public meeting via conference agenda

Importance: High

From: Stephen Hooper <shooper@farmersagent.com>
Sent: Friday, May 1, 2020 4:22 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: public meeting via conference agenda
Importance: High



Variance board, as a past Variance Board Member in Great Falls, I understand the importance of what you do, however, the Asphalt Plant request has not been adequately broadcast. This issue should be tabled until June 2020.

Thanks

Steve Hooper

Stephen Hooper
Farmers Insurance
575 Sunset Blvd Ste 203
Kalispell, MT 59901-3637
406-752-4357 (Office)
406-257-5190 (Fax)
shooper@farmersagent.com
<http://www.farmersagent.com/shooper>



Mark Mussman

From: Larry Schreader <lschreader@gmail.com>
Sent: Sunday, May 3, 2020 11:57 PM
To: Mark Mussman
Subject: #FCU-20-04 schellinger Tutvedt pit 3427Farm to market rd Kalispell, MT 59901

Mark, I have been recently been informed that there is a potential danger in West Valley.
FCU-20-04 Schellinger Tutvedt pit.

I am voting that the pit be denied or at least delay the vote until further information can be gathered.

Mark, I am a United states Veteran of the Marine Corps, also a retired fire fighter. I reside in beautiful West Valley Kalispell, MT. 59901

Please understand that as a soldier and a firefighter, I have been exposed to many caustic chemical environments. West Valley has been a blessing for me. clean fresh air, open spaces, wildlife, wonderful people, let's not forget the beautiful views. This healthy living is detrimental to our children, agriculture, as well as current and future residential growth.

We should all know that Asphalt fumes, and smoke are extremely dangerous as well as Concrete/Cement dust is just as dangerous. Thank you for your attention to this matter.

Larry Schreader
52 Wendt Way
Kalispell, MT 59901
(406) 871-1467



Mark Mussman

From: Family <mtbernts8985@gmail.com>
Sent: Sunday, May 3, 2020 8:51 PM
To: Mark Mussman
Cc: marvin_bernt@amat.com
Subject: Request to delay decision on #FCU-20-04

Dear Mr. Mussman,

We are writing to ask as West Valley residents, that a decision on permit application #FCU-20-04 be denied or delayed for further public comment. The original approval as a gravel extraction only permit was very controversial, and we feel that the requested changes to include post processing of the gravel (asphalt or cement plants) go well beyond the original understanding of the granted use.

Best Regards,
Susan and Marvin Bernt
294 Lone Fox Trail
Kalispell, MT



Mark Mussman

From: Anita Lavin <alavin@centurytel.net>
Sent: Sunday, May 3, 2020 6:10 PM
To: Mark Mussman
Subject: asphalt plant

Dear Mr. Mussman, could you please delay a vote on the Conditional use permit for the West Valley asphalt plant? More time is needed to address various issues and concerns. Thank you. Sincerely, John and Anita Lavin, 111 Drumlin Way, Kalispell, MT



Mark Mussman

From: Shirley Giles <Shirley@robgileselectric.com>
Sent: Sunday, May 3, 2020 6:04 PM
To: Mark Mussman
Subject: Gravel pit @ 3427 Farm to Market

Please please please postpone this meeting. This. Meeting to be postponed until June so that the public can be aware of the consequences of having as asphalt plant in our beautiful West Valley

Thank you
Rob and Shirley Giles
Sent from my iPhone



Mark Mussman

From: W. Leuthe <schatzee2000@gmail.com>
Sent: Sunday, May 3, 2020 3:28 PM
To: Mark Mussman
Subject: Request / Comments for WebEx on 5/5/2020

Due to COVID-19 overwhelming impact to citizens of the Nation, Montana and the Flathead Valley, we respectfully request that you and the Flathead Planning Zoning and Flathead County Board of Adjustment to postpone the request to modify a condition FCU-05-07 for a concrete and/or asphalt batch plant on existing gravel extraction operation located at 3427 Farm to Market Road.

Again, request to table and postpone until June 2020.

Jeff and Wendy Peterman
3625 Farm to Market Rd, Kalispell, MT 59901



Mark Mussman

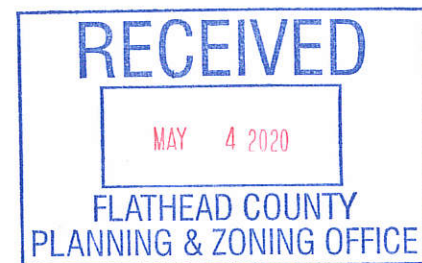
From: P.J. Rismon <pjrismon@gmail.com>
Sent: Sunday, May 3, 2020 3:22 PM
To: Mark Mussman
Subject: Cement and asphalt plant on Farm to Market

Hello,

I and my husband were unpleasantly surprised to read in today's paper that the County Board of Adjustment is about to consider a request to allow an asphalt and concrete plant to be added to the gravel pit located on the property owned by the Tutvedt family near the corner of Church Drive and Farm to Market Road. We live just South of the location and are very concerned about the possible negative environmental effects such as air and water pollution. In addition, the increased large truck traffic would mean additional noise, dust, diesel exhaust and safety issues. It's dangerous and annoying to have the current gravel trucks traveling to and from the aforementioned gravel pit; we certainly don't want the additional heavy truck traffic in our residential neighborhood. Please deny the request to allow a concrete and asphalt plant in the above-mentioned location. Thank you.

Peggy Rismon

Paul Beckley



Mark Mussman

From: Jody Stewart <desertjod@msn.com>
Sent: Sunday, May 3, 2020 12:57 PM
To: Mark Mussman
Subject: Gravel pit 3427 Farm to Market Road

I am sending you this email regarding the Expansion for the gravel pit at 3427 Farm to Market Road.

Seems this has just been brought to light to the residents of the immediate area in the past couple of days. I feel strongly that this should not be allowed in a residential part of our town. I haven't seen any impact studies for pollution to our wells, the air quality, noise and the increase in heavy truck traffic for the roads..

We need more information before this proceeds. There has not been adequate time for all of the concerns that the public has regarding this situation. My neighbors and I are in agreement that this needs to be postponed until we have the adequate information to make the right decisions so transparency and public health and safety issues should be the foremost concern.

Sincerely,
Jody Stewart



Mark Mussman

From: Jim and Kathy <jkkola@centurytel.net>
Sent: Sunday, May 3, 2020 11:53 AM
To: Mark Mussman
Subject: Board of Adjustments Meeting on #3FCU-20-04

Director Mark Mussman

We are asking the Board of Adjustments Meeting on March 5th on #3FCU-20-04 be postponed for the following reasons. Since we only found out about the application for an asphalt/concrete plant permit @ 3427 Farm to Markey Road last Friday May 1. The results of any decision will affect us and we feel we need more time to review the details of the proposal. At the present time we feel that this item needs to be openly discussed at an open meeting not via WEB-EX. We personally feel that the applicant picked this time of the of the pandemic to submit the permit so that public participation and thus opposition would minimal. In fairness to all who live in the area and because of the large nature of the project more time should be allotted to get the greatest involvement. We are asking that the meeting be postponed so that true public involvement can take place.

Sincerely,
Jim and Kathy Kola
158 West Valley Acres

Sent from Mail for Windows 10



Mark Mussman

From: pgonsalves760 <pgonsalves760@gmail.com>
Sent: Sunday, May 3, 2020 11:45 AM
To: Mark Mussman
Subject: Postpone meeting scheduled for May 5th

Please postpone the meeting concerning rezoning the sitr 3427 Farm-to-Market to June. There are many concerns that can't be addressed with a web/telephone format. Thank you for your consideration

Sent from my Verizon, Samsung Galaxy smartphone



Mark Mussman

From: Nancy Ellis <saffronsun108@gmail.com>
Sent: Sunday, May 3, 2020 11:31 AM
To: Planning.Zoning; Mark Mussman
Subject: FCU-20-04

Hi there,

I am strongly opposed to the proposed asphalt batch plant!

I have great concerns about how this plant will affect the health of the community residents, the potential negative influence on our water supply, and the overall harmful environmental impact. I want to know why this permit application did not go before the West Valley Land Advisory Committee? We have the right to have a public meeting, in person, where we are given all facts and information. No decision should be on this permit application until after the covid crisis has diminished and it is safe to hold a public meeting. Again, I am strongly against this proposed asphalt plant.

Kindly,

Nancy Ellis

(resident on Lost Creek Dr.)

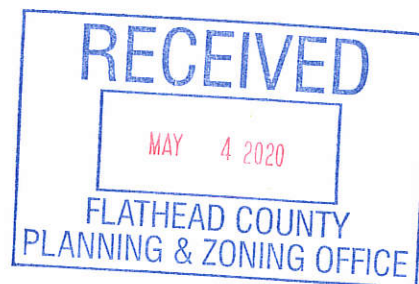


Mark Mussman

From: Jessica Lunbeck <jessica_joy_7@yahoo.com>
Sent: Saturday, May 2, 2020 2:53 PM
To: Mark Mussman
Subject: Asphalt Plant

Hello. I got a notice saying that an application has been put in for a plant at 3427 Farm to Market Rd. Please hold off on the vote until June. The public has not been given any information about anything. I just happened to see a notice on a bulletin board at the end of my road. Personally I don't want an asphalt plant in a residential and farming community. I think it would be bad for the environment. I would like to make an informed decision though. Thank you. Jessica Lunbeck

Sent from Yahoo Mail on Android



Mark Mussman

From: Roger Brewer <fishmanbrew@yahoo.com>
Sent: Saturday, May 2, 2020 2:38 PM
To: Mark Mussman
Subject: Comments for the BOA meeting May 5th

The following comments are from Roger and Marty Brewer, 3025 Farm to Market Rd. They regard FCU 20-04, a request for a change in the conditional use permit requirements from FCU-05-07 which was adjudicated and specifically prohibited an asphalt/concrete batch plant at that location.

We would ask two things of the Board of Adjustments

1) That the consideration of FCU-20-04 be tabled until such time as the public has the right to attend and participate in the discussion other than in a virtual format which will make participation by many community members very difficult and in some cases impossible.

2) If the proposal is not tabled, we would ask that the Board deny the request for the following reasons:

a) The area of the proposal is increasingly residential and the existence of a commercial venture of this type conflicts with the nature of the community.

b) The findings of fact refer to the fact that only a 1.5% increase in traffic on Farm to Market Rd. would result however that discounts the fact that the heavy truck traffic which currently exists has caused significant deterioration of the road surface and this use would only exacerbate that problem.

c) There is already a concrete batch plant within approximately 5 miles so there is no community need for an additional plant that close.

d) The findings of fact imply that the effects of the fumes and odor would not be significant because the nearest residence is 1600 feet away from the proposed site. I wonder what makes the evaluator think the fumes and odor wouldn't spread much further than that.

e) The decision of the courts in the previous case specifically prohibited the batch plant for a valid reason so what justification is there for changing that restriction other than the desire of the property owner and Schellinger to make more money at the expense of the West Valley community members.



Mark Mussman

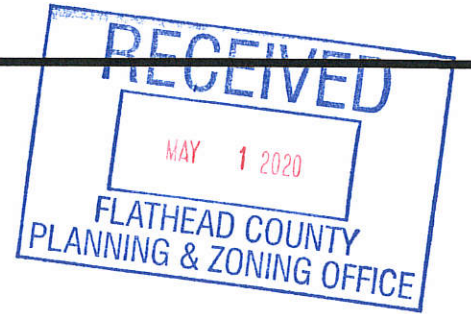
From: Nathaniel Prince <nate.princemt@gmail.com>
Sent: Friday, May 1, 2020 4:41 PM
To: Mark Mussman



Mr. Mussman, I am writing in to request that that this vote be postponed until June. Many serious issues exist with Conditional Use Permit Report (#FCU-20-04), and the process whereby the public has not been given enough time, and more importantly, SPECIFICS, of this proposed operation that over time could expand to 320 acres. There are too many SPECIFICS that have not been disclosed such as technical details regarding the size of the plant, concrete or asphalt or BOTH. The excessive traffic that would be generated, the number of loads or tonnage, whether the plant would be a mobile operation, etc. The potential of degradation of property values, the traffic flow on Farm To Market Rd, air and water quality, and resident's respiratory health. Lab studies have shown the effects of exposure to asphalt fumes are lung, stomach and skin cancers, throat and eye irritation. Those of us living in the West Valley and some of us within 2 blocks of the proposed area know first hand that the wind direction and strength can be very strong, so it is not just the people living near the proposed area who are at risk. West Valley School is located only 2 miles away! I strongly urge you to postpone until June. Most people are just learning that this is being proposed the last week and we need a efficient amount of time to be prepared to come to our immediate neighborhoods defense. Sincerely, Nathaniel Prince 1881 Old Reserve Dr. Kalispell MT 59901 PH# 406-871-1199

Mark Mussman

From: msrobin333 <msrobin333@gmail.com>
Sent: Friday, May 1, 2020 4:23 PM
To: Mark Mussman
Subject: Event # 281792188



Hello,

I recently found out that there is a meeting May 5th for the approval of a concrete and asphalt plant on farm to market road. There has not been enough time for all the residents to know about and have a say in this matter than may affect their health and future. Please postpone this meeting until June if possible.

Thank you

The Archers

Mark Mussman

From: Robin Koski <robinkoski@yahoo.com>
Sent: Friday, May 1, 2020 12:08 PM
To: Mark Mussman
Subject: Event 281-792-188#



Concrete/and or Asphalt batch plant

Mr. Mussman,

I am writing in to request that that this vote be postponed until June.

Many serious issues exist with Conditional Use Permit Report (#FCU-20-04), and the process whereby the public has not been given enough time, and more importantly, SPECIFICS, of this proposed operation that over time could expand to 320 acres.

There are too many SPECIFICS that have not been disclosed such as technical details regarding the size of the plant, concrete or asphalt or BOTH. The excessive traffic that would be generated, the number of loads or tonnage, whether the plant would be a mobile operation, etc.

The potential of degradation of property values, the traffic flow on Farm To Market Rd, air and water quality, and resident's respiratory health. Lab studies have shown the effects of exposure to asphalt fumes are lung, stomach and skin cancers, throat and eye irritation.

Those of us living in the West Valley and some of us within 2 blocks of the proposed area such as myself...know first hand that the wind direction and strength can be very strong, so it is not just the people living near the proposed area who are at risk. West Valley School is located only 2 miles away!

I strongly urge you to postpone until June. Most people are just learning that this is being proposed the last week and we need a efficient amount of time to be prepared to come to our immediate neighborhoods defense.

Sincerely,

Robin S Koski
1825 Church Drive
Kalispell MT 59901
PH# 406-260-0165

MEMORANDUM

TO THE FLATHEAD COUNTY PLANNING and ZONING OFFICE

FROM: DON MURRAY
HASH, O'BRIEN, BIBY & MURRAY PLLP
dmurray@hashlaw.com

TO: MARK MUSSMAN (and Caitlin Overland)

DATE: May 1, 2020

RE: FCU-20-04, Tutvedt Gravel Pit – Batch Plant Amendment



Dear Mark:

I have been asked by a group of residents of the West Valley to assist them with this zoning matter, the Schellinger/Tutvedt application for a conditional use permit FCU-20-04 to do away with the very specific and unambiguous prohibition against asphalt and cement manufacturing (batch plants) **that Tutvedt and the County agreed to** in a 2010 court-approved settlement.

While there are numerous issues we see in connection with this application, such as not having the application reviewed by the West Valley Land Use Advisory Committee before it goes to the Board of Adjustment, and whether the application contains sufficient detail to be meaningfully evaluated by your staff or the BOA, there is one issue in particular I would like to focus on preliminarily; an issue I think is foundational to the process and should be addressed and resolved if possible before the matter proceeds any farther. If our view of this issue is correct, and I think it is, it will dispense with the need to address the other issues that are either procedural or go to the merits of the CUP amendment request.

The whole point of settling the years-long litigation over the Tutvedt gravel pit back in November 2010 was to reach an out-of-court settlement and bring to an end over five years of contentious litigation that had centered on whether Tutvedt would be permitted to conduct a gravel crushing operation on its property, and whether Tutvedt would be allowed to operate a batch plant in conjunction with its gravel pit. Flathead Citizens had sued in 2005 to block the crushing operation, and after that case went up to the Montana Supreme Court, Tutvedt sued to secure the right to operate a batch plant in the pit.

As you know, the litigation was protracted, went up on appeal once and seemed to be headed back to the Montana Supreme Court again when in November, 2010, more that five years after Flathead Citizens filed suit initially, the parties hammered out a settlement. That agreement, reduced to lowest terms, provided

that Tutvedts would get the right to operate a gravel pit on their property that included a crushing operation for material mined on-site, and in exchange, Tutvedts agreed there would be no manufacturing of asphalt or cement – no batch plant. That was the deal. Tutvedt gave up its claim that it should be allowed to manufacture asphalt in exchange for being able to mine gravel and operate a crushing facility on its West Valley farm. It was a deal – an agreement – one that was hard fought with concessions made on both sides in order to secure an important permit and to bring an end to years of litigation.

Tutvedt and the County made a very clear agreement and promise to the people of the West Valley – with Tutvedt “saying:” “If you give us a gravel pit with a crushing operation, we will give up our request to manufacture asphalt – for a batch plant.” Flathead County entered into that agreement with Tutvedt on behalf of the citizens of the County generally and the residents of the West Valley in particular. The parties asked the District Court to approve and implement their settlement agreement, which the Court did with the *Consent Decree* we are now trying to interpret.

In “non-legal” language, this is Tutvedt, with the support of your office, reneging on the deal it made to get the gravel pit and crushing operation it wanted. With all due respect, I don’t think you can do that; nor should you.

I have read your April 4th email to West Valley resident, Molly Schwartz, in which you provide as justification for supporting the request to rescind this bargained-for prohibition against a batch plant paragraph 3C of the Court’s *Consent Decree*. You quote it accurately in your email (although I believe it is paragraph 3C, and not 1C as you state). It provides [emphasis added by me]:

3. Plaintiff [Tutvedt] has two Conditional Use Permits: FCU-05-07 and FCU-08-07. Plaintiff’s Conditional Use Permit ***FCU-08-07 shall be modified*** to include only the following conditions:

C. Processing of mined materials shall be limited to those sourced from the subject property only. No off-site material shall be imported for processing in any way. The existence of ***this condition*** shall not preclude or prejudice any future application for an amendment to ***the CUP*** made in light of the new definition of “gravel extraction” in the Flathead County Zoning Regulations.¹

The prohibition against asphalt manufacturing (batch plants) is in the other permit, FCU-05-07, and appears in a separate, stand-alone paragraph at the very end of the list of conditions. It is given bold italics in the original document for emphasis. It states:

28. Asphalt and concrete batch plant operations are prohibited.

¹ The first two sentences of paragraph 3C, addressing imported materials, are almost identical to recommended condition No. 9 on page 14 of the report of your office on FCU-08-07.

In addition to being the primary objective of the parties' agreement, this prohibition is also consistent with the conclusion of your office in its report on FCU-08-07, which correctly concludes on page 6:

The West Valley Neighborhood Plan discussion on Commercial/Industrial uses identifies the need to "allow opportunities for gravel extraction" while not permitting industrial activities (including asphalt and concrete plants).

For the reasons I will note below, I think your reliance on paragraph 3C (which modifies FCU-08-07 only, and *not* FCU-05-07) to justify seeking the elimination of the prohibition against batch plants in paragraph 28 of FCU-05-07 is misplaced. Here is why I say that:

First, paragraph 3C applies specifically and exclusively to FCU-08-07. If you look at paragraph 3 of the *Consent Decree*, it clearly provides that its subparagraphs A, B, C and D are the "new" conditions to FCU-08-07. Those four conditions modify FCU-08-07. The reference to "the CUP" in paragraph 3C is a reference to FCU-08-07. One cannot logically take 3C out of its context of "this condition" (the limitation on imported material) and apply it in a completely different context, as you have done, to justify seeking the elimination of the batch plant prohibition prominently stated in FCU-05-07.

Second, paragraph 3C deals with one narrow issue – restricting the import of material mined off-site for processing at the pit. It is very specific and limited in that regard. It does *not* address the manufacture of asphalt and cement. So in providing as 3C does, "The existence of *this* condition shall not preclude or prejudice any future application . . ." for a future amendment, there is clearly intended to be a correlation between the treatment of imported mined material and a future amendment based on the new, expansive definition of "gravel extraction." These two provisions were not placed together as they were by accident or coincidence; specifically connecting them as was done was intentional and purposeful. It constitutes an unwarranted "leap of logic" to conclude as you have that "the future application for an amendment to the CUP . . ." (FCU-08-07) referenced in 3C would include one to eliminate the blanket prohibition against batch plants contained in the other CUP, FCU-05-07.

Moreover, the prohibition against batch plants represents the very essence – the primary objective – the *sine qua non* of the settlement between Tutvedt and the County. It is absurd to believe the parties litigated this issue for over five years to achieve the blanket prohibition against a batch plant, only to put in their settlement agreement (approved by the Court) a provision that says, "Tutvedt, you agree to a prohibition against batch plants, but you can go to the BOA tomorrow and ask them to let you have one." That just is not logical and not supported by the language in the *Consent Decree*, but it is in essence how your office has interpreted it. If your interpretation was correct, Tutvedt could have submitted this application to eliminate the prohibition against batch plants in

FCU-05-07 before the ink was dry on the settlement in which Tutvedt clearly gave up any claim to a right to operate a batch plant. That would be illogical and irrational; clearly at odds with the whole point of the settlement.

It is also important to note that when the parties entered into this settlement agreement, all parties were well aware of the changes that had been made to the definition of “gravel extraction” in the County’s *Zoning Regulations*. Had it been the intent of the parties to allow the reversal of the prohibition against batch plants set forth in FCU-05-07, they could have easily so provided. But they did not. Moreover, “condition” 28 isn’t really a “condition” that is subject to modification. It is an absolute, unconditional, unambiguous **prohibition**. While it is contained in the list of items that are “conditions,” it is clearly very different from all the other items in the list that address matters such as fencing, hours of operation, approach permits, lighting, signage, noise, complying with applicable regulations, and so forth. These are the conditions and restrictions that govern the permitted conditional use that could be subject to modification. Number 28 is very different. It is an absolute, bargained-for, agreed-upon **prohibition** of a separate activity – operating a batch plant. It cannot be modified this way and paragraph 3C of the *Consent Decree* does not authorize the County to go back on the deal it made on behalf of the people of the West Valley, most certainly not without the approval of the Court, which very specifically retained jurisdiction over the matter, including to construe/interpret the parties’ agreement. The Court stated:

2 3 4 5 6 7 8 9 10 11	8. This Court shall retain jurisdiction of this case for the purpose of enabling any of the parties to this stipulation to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this stipulation, to modify or terminate any of their provisions, to enforce compliance, and to punish violations of its provisions. If it shall be made to appear to the Court that there has been a violation of any of the terms of this stipulation, upon motion, this Court may enter an order to show cause why the party in violation should not be found in contempt. Nothing in this document shall bar any party from seeking, or the court from imposing, against any party any other relief available under any other applicable provision of law for violation of this document, in addition to or in lieu of the civil penalties provided for above.
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In short, what the Court said in that paragraph is that if, at **any time**, there is a question about what the Court’s *Decree* means – including whether it means what you have asserted it means in your April 4th email to Molly Schwartz – the parties are to “come back” to the Court for guidance and not, on their own, unilaterally, make such a weighty decision as your office has made that Tutvedt is free to seek through a CUP amendment to be relieved of its agreement it would not operate a batch plant.

Mark, I believe your office should, and I hereby request that it does, amend its staff report in this matter to recognize that this prohibition against batch plants is not modifiable through the CUP amendment process, and that pursuant to the *Consent Decree* entered by the District Court any interpretation or modification of that *Consent Decree* on such a weighty issue as we have here must be sought by way of proceedings in the District Court.

If you would like more time to consider our position and this request, we would ask that the matter be tabled by the BOA until, at the soonest, its next (June) meeting and preferably indefinitely until a decision is made by your office about whether the matter should proceed to the BOA at all or is more appropriately addressed in the District Court under the *Consent Decree*.

If you are inclined to let the matter proceed to the BOA for a determination as it is presently scheduled at the Board's May 5th meeting, I think my clients are left with having to present the matter to the District Court with what I think would be a combined request for a show cause hearing to determine if the County should be held in contempt for violating the Court's *Decree* (see Paragraph 8 of the *Consent Decree* quoted above), a motion for a temporary restraining order to stop the process from going forward as a CUP amendment, and an application for a writ of mandamus to compel the County to honor the *Stipulated Consent Decree* as it is clearly written.

Thank you very much, Mark, for considering our position on this matter. And since this matter is coming up so soon before the BOA, and since so many West Valley residents are concerned about it, if you could give us some indication of your inclinations asap, that would be greatly appreciated. Also because of the shortness of the time involved, I will direct a copy of this memo to Caitlin in the County Attorney's office.

Take care, Mark.

[Electronically signed]

Donald R. Murray

Mark Mussman

From: Judy Bennett <judybennett640@gmail.com>
Sent: Friday, May 1, 2020 11:40 AM
To: Mark Mussman
Subject: Zoning Department meeting May 5



It has come to our attention that a Zoning Department meeting has been planned for May 5th via WebEx. We request that this meeting be postponed until a time where we can attend in person. We do not know how to do a web/telephone call and feel that we are at a disadvantage because of that fact; therefore we can not be represented, make our opinions known, nor participate in any discussion.

Thank you,
Irwin and Judy Bennett
1565 Church Drive
Kalispell, MT 59901
406-257-3175

April 30, 2020



TO: Flathead County Board of Adjustment

FROM: Meliss Brown Clark

RE: (#FCU-20-04

REQUEST: I respectfully ask that the Board of Adjustment delay this application
until the June meeting.

REASONS:

1. Condition # 28 from FCU-05-07a **expressly prohibits asphalt and concrete batch plants.**
2. The statement on page 9 of Finding #14 is not accurate. . . .“minimal impact on the neighborhood as a result of . . .fumes. QUESTION Who defines minimal? Some people are quite sensitive to the fumes and therefore will lose the use of their outdoor activities during the hours of operation.
3. Instructions on the application permit require special attention to numbers 2 and 3 *“In answering questions 2 & 3 on the application, be specific and complete.”*
Question 2 Part D. Immediate Neighborhood Impact “ # (4) smoke, fumes, gas, or odors “ Answer on permit application: “The extraction process will generate **some odors and increased fumes** will result from additional truck traffic.” QUESTION: Who defines SOME? Odors and fumes will be the result of processing asphalt. NOTE: By whose definition is the process of manufacturing asphalt an extraction? Manufacturing asphalt is using extracted materials. **Odors and fumes apply to the manufacture of asphalt.**

4. Is there a specific definition of “*a minor modification to a previously approved Conditional Use Permit*”? The following information comes from Section 2.06.050(2) of FCZR: Upon reading the text of the Use Permit Report concerning (#FCU-20-04, *the zoning administrator has the power to declare the asked for change minor.*

In the second paragraph of page 5, “The Zoning Administrator determined that because asphalt and/or concrete batch plants were specifically prohibited with the original request, the condition modification request constitutes a substantial change.” *This language is a contradiction of the term minor.* The paragraph goes on to list Zoning Administrator’s reasons for considering the requested zoning regulation change.

5. It does not seem reasonable for the Board of Adjustment to very narrowly consider the change minor; to disregard other aspects of such an allowance; such as, considerable impacts on the surrounding neighborhood. It is disingenuous to allege that minimal harm will occur, or intimate that the size of the operation will be contained within the perimeters of said operation. **Fumes and odors know no boundaries.**

6. On page 10 of the Conditional Use Report, item VI. CONCLUSION is entirely out of context.

7. On page 4 of the Use Permit Report it states: "Moreover, there are other gravel extraction operations in **close proximity** that have been permitted to include batch plants" QUESTION: Who or where is *close proximity* defined? Note: NUPAC had a gravel, asphalt and concrete operation on Stillwater Road, just north of the present day operation by LHC. The pit to the north of LHC no longer has an asphalt or concrete batch plant in operation. The NUPAC operation had an extensive permit issued by the Air Quality Department in 05/04/05; Permit #1125-05. The LHC permit was granted because there was an existing permitted operation (NUPAC)

(The existing LHC plant does produce asphalt-related fumes. The east winds send the fumes to the area 2-2 1/2 miles away. I cannot work outdoors when the east wind is blowing fumes.) This is my specific problem. I have not surveyed others in my neighborhood.

I SINCERELY REQUEST THAT THE BOARD OF ADJUSTMENT DELAY THE APPLICANT'S REQUEST UNTIL THE JUNE MEETING.

QUESTION: Is there an overwhelming body of evidence that delaying the meeting one month will seriously injure the applicant? *This question should be answered with SPECIFIC AND TECHNICAL DETAILS.*

Respectfully submitted by

Meliss Brown Clark

MAY 01 2020

April 30, 2020

TO: Mark Mussman and The Flathead County Board Of Adjustment

Re: Rob Schellinger's request to allow a concrete and or asphalt batch plant located at 3427 Farm to Market Road where the existing gravel pit is



Dear Mark and Board Members:

My husband and I own a home and 40 acres directly across Church Drive to the north of the gravel pit. We purchased the property in 2002 prior to the creation of the gravel pit and have endured years of beeping and rock crushing noises starting early in the morning (Saturdays included) lasting until early evening , much added traffic, dust, vibration and pollution as a result of the gravel pit.

My husband was one of the very few neighbors who received the letter telling us of this new request as our property is reportedly within 150 feet of the gravel pit. I was told by a woman at the Flathead County Planning and Zoning Office that only neighbors who live within 150 feet of the gravel pit were notified. To think that an antiquated law only requiring neighboring landowners to be notified if their property is within 150 feet of the proposed asphalt plant is not only ridiculous , but it is deceitful. West Valley residents have not been given enough time and specifics of this proposed operation that over time could result in West Valley as an industrial-like area. In the County Staff report there are no technical details regarding size of plant, asphalt OR concrete, the excessive traffic that would be generated, or whether the plant would be a mobile operation. Since the inception of the gravel pit there has been many homes built along Farm to Market Road and Church Drive that surround and are adjacent to the pit, not to mention the numerous new subdivisions also adjacent to the pit which will mean more continued growth, more homes and more traffic. The West Valley zoning regulations define the West Valley as residential, and asphalt and concrete plants are prohibited in residential zones. The Montana District Court Decision of November, 2010 explicitly states that "Asphalt and concrete batch plant operations are prohibited. "

I want each one of you board members who seem to hold our future fate in your hands to ask yourselves, would you want to live next to an asphalt plant? Would you want to have your children and grandchildren playing in the yard only to be exposed to toxic fumes from the asphalt plant that can cause cancer ? These plants can release millions of pounds of chemicals to the air during production each year, including many cancer causing toxic air pollutants such as arsenic, benzene, formaldehyde and cadmium. Other toxic chemicals are released into the air as the asphalt is loaded into trucks and hauled from the plant site. The EPA states "asphalt processing and asphalt roofing manufacturing facilities are major sources of hazardous air pollutants. Exposure to these air toxins may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation. "

What are our options I ask each one of you. Yes we can stay and hope and pray that our health is not compromised by the toxic fumes as well as having to endure the increased noise , toxic fumes, dust, increased traffic and pollution to our air quality . Or we could try to sell our homes and move to a safer

environment, yet would you want to buy our homes and come and live next to an asphalt plant? Studies show in some areas that property values decrease by 56 per cent if one lives near an asphalt plant.

Please ask yourself what you personally love about the valley and why you moved here. Is clean air important to you? Do you care about the environment where we are raising our children and grandchildren? I personally want to live in a neighborhood where our children and grandchildren can grow up healthy and thrive.

We all need a protected safe community and natural environment to enjoy. I implore you to postpone the vote until June and to vote no on this request. West valley now has multiple subdivisions surrounding the gravel pit and as stated earlier, West Valley is zoned as residential. This is NOT the place for an asphalt plant.

Thank you for your concern about transparency, public process and the safety of our residents.

Sincerely,

Babby McCartney and Klaus Kleinke

MAY 01 2020

05/01/2020

Mr. Mark Mussman, Director
Flathead County Board of Adjustments



Ref: Proposed construction of a concrete and/or asphalt batch plant at 3427 Farm-To-Market Road, Kalispell, MT.

Dear Mr. Mussman,

This letter is to inform you that my wife and I formally go on record as opposing the granting of the conditional use permit (CUP) application #FCU-20-04 concerning the construction of a concrete and/or asphalt batch plant at the existing gravel mine at 3427 Farm-To-Market Road in West Valley. Additionally, we request a delay of the May 5th meeting to a later date.

I am fourth generation on property directly south of the proposed plants at 1180 Clark Drive. Clark Drive is named for my great-grandfather, who homesteaded there. Not only will a concrete and/or asphalt batch plant degrade the market value of all the surrounding property, it will also certainly negatively impact the residents, wildlife, livestock, water, noise, and air quality in a very scenic part of the valley.

The construction of these plants is not in the interest of the residents of West Valley, nor is it in the best interest of maintaining the integrity of the West Valley Zoning as has been in effect in the area for many decades. While such plants may be permitted in some areas and instances per the Flathead County Zoning Regulations, Resolution No 955A, Revised 03/01/2010, the construction does not comply with the stated land use goals of the residents of West Valley as follows:

"To respond to changing uses in the West Valley area, the residents formulated four land use goals, and accompanying policies, to guide the development of new zoning regulations. These goals include:

- (1) Planning for wise use of the land in the West Valley;
- (2) Maintaining the rural and scenic quality of the valley;
- (3) Protecting air and water quality;
- (4) Protecting private property rights.

The County Staff report and CUP do not provide technical details regarding the plants, nor does it address the negative impacts to the area quality of life in any effective manner. Clearly, a concrete and/or asphalt batch plant does not fall in line with the accepted definitions and intent of any of the above stated goals.

In view of these numerous open questions and issues surrounding CUP #FCU-20-04, please delay the meeting scheduled for May 5th to a later date in June to allow those affected by this application additional time to research this project. The prevailing Covid19 restraints on personal interactions greatly reduces the effective communications time and reach of the local community. A meeting delay is certainly in the best interests of all involved.

Respectfully,

MSgt. Gerald Nielsen, USAF (Ret)
Diana Nielsen, RDH

Mark Mussman

From: Mary Fisher
Sent: Friday, May 1, 2020 9:56 AM
To: Mark Mussman
Subject: FW: Asphalt batch plant Tutvedt



-----Original Message-----

From: Marylane <kuhlpan@cyberport.net>
Sent: Friday, May 1, 2020 9:46 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Asphalt batch plant Tutvedt

The comment period should be extended for this proposal. The noise and traffic will definitely affect this beautiful area.

Marylane Pannell
kuhlpan@cyberport.net

Sent from my iPhone

Mark Mussman

From: jeaolson@cyberport.net
Sent: Friday, May 1, 2020 7:19 AM
To: Mark Mussman
Subject: Extend public comment period on Tutvendt asphalt plant permit

We'd ask that the public comment period be extended on FCU-20-04 and the hearing be postponed for several months. The West Valley public need more information, and more time. This is a major change to a gravel pit in a residential area, and most people aren't even aware of it. Also the proposed method of current meeting is difficult for the general public. We live less than 2 miles from the proposed site, (not far for West Valley dusty winds and noise) and only learned of it today because of an alert friend.

Dan and Jeanne Olson
160 West Valley Acres
Kalispell, MT 59901



Mark Mussman

From: Teri Bjornrud <teri@centurytel.net>
Sent: Thursday, April 30, 2020 7:55 PM
To: Mark Mussman
Subject: West Valley BOA agenda item



Received, thank you

Another issue besides the critical one at hand, is that most of us in the area of concern have weak cell signals. So in order to participate, we must have a land line? And then pay long distance. I think that further limits public input.

I vehemently oppose the plant, and feel that more information and public input is necessary.

Teri Bjornrud

From: Mark Mussman <mmussman@flathead.mt.gov>
Sent: Thursday, April 30, 2020 2:38 PM
To: 'teri@centurytel.net' <teri@centurytel.net>
Subject: Agenda

Attached is the agenda of the May 5 Board of Adjustment meeting with instructions on how to access the meeting by phone.

Mark Mussman, CFM

Director
Flathead County Planning & Zoning
40 11th Street West
Kalispell, MT 59901-5607
Phone: 406.751.8200
Fax: 406.751.8210

Mark Mussman

From: Mary Fisher
Sent: Friday, May 1, 2020 7:44 AM
To: Mark Mussman
Subject: FW: West Valley batch and asphalt plant



From: Engebritson, Vern <Vern.Engebritson@weyerhaeuser.com>
Sent: Friday, May 1, 2020 7:13 AM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: FW: West Valley batch and asphalt plant

From: Engebritson, Vern
Sent: Friday, May 1, 2020 6:37 AM
To: 'mmussman@flathead.mt.gov' <mmussman@flathead.mt.gov>
Subject: West Valley batch and asphalt plant

Hello I am writing in response to the planning board meeting on may 5th that will be held with no people present to voice concerns. This batch plant and asphalt permit will have a strong effect on the surrounding west Valley community and should not be relegated to a closed door meeting in which there will be no way that everyone who has an opinion on the subject can be heard. Our government has put many things on hold because of the pandemic, peoples jobs and lives are in limbo right now. The fact that you have decided to push this project through at this time is troubling at best. In the past there has been a large push back by the community against this type of activity. While I acknowledge the right of property owners to use their land to the best of their abilities, I find that giving a 2 week notice of the meeting that will be held closed door via electronics is unacceptable. The fact that in the past property on the west side of Farm to market road was deemed unacceptable for gravel pit use because of environmental reasons is also raising some alarms. This property is right across the road from where they want to put the plant. I would like to know how only 20 to 30 feet of road makes the difference between acceptable and not acceptable. What harm would be done by delaying the meeting for a month or two in order to allow the people who will be affected by this to give their input. The owners of the plant are not living next to the plant and will not smell the asphalt or hear the sounds of the industry. They also will not experience the loss of property value due to this loud and odorous process. Also we need to address the fact that the surrounding roads are not really designed to handle the large truck traffic. They are narrow and in failing repair thanks to local and state governments. There are so many more questions that need to answered on this and being done under this pandemic lockdown is not acceptable. Many people in the West valley community are older and do not have the technology or the proper instructions to log onto your online meeting. From personal experience the technology is spotty at best and hard to get recognition if it does go off without a glitch. I will look forward to hearing back from you on the reasoning for the rush to approve. Also please realize that if you continue to proceed with these actions politicians and media will be contacted and we will bring light on the subject that may not be favorable to your committee and its proceedings. Thank you for your time.

Vern Engebritson
Hydraulic Technician
Medium Density Fiberboard
105 Mills Drive
Columbia Falls MT
406-250-9738

Mark Mussman

From: kallie woods <kalliewoods@hotmail.com>
Sent: Thursday, April 30, 2020 4:14 PM
To: Mark Mussman
Subject: Farm to Market and Church Rd. proposed asphalt plant

Mr. Mussman, my name is Kallie Woods and my family lives off of Lost Creek by the Kalispell Kreamery. We are just recently learning of voting for an asphalt plant close to our home. We are asking you to please deny or postpone the voting for the proposed asphalt plant (#FCU-20-04) by Farm to Market and Church Road until further information can be gathered.

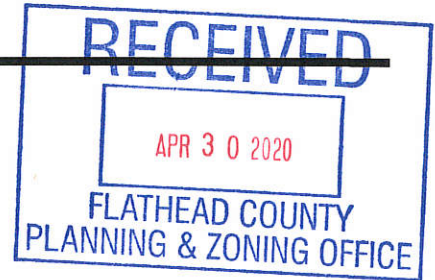
Sincerely,
The Woods Family

Sent from my Verizon, Samsung Galaxy smartphone



Mark Mussman

From: Pat Jaquith <pjaquith07@gmail.com>
Sent: Thursday, April 30, 2020 3:18 PM
To: Mark Mussman
Cc: Patricia Jaquith
Subject: Item #FCU-20-04. Asphalt batch plant proposal



I am writing to request denial or delay in hearing the issues and concerns of the greater community on #FCU-20-04. The proposed development represents a major change of use and could have significant impact on the area. Because of the unusual circumstances of not holding an open hearing, it is my concern that a greater amount of time must be allowed before action can be considered. Holding a hearing remotely is a method with which local people are unaccustomed, and many voices may not be heard because of it.

At the very least, I request that the Board extend the time to enable concerned parties to seek information and to communicate their opinions.

Thank you for taking the time to make sure everything possible is done to allow democratic debate as nearly as we are accustomed.

Patricia Jaquith
Sheepherder Hill Road
Kalispell, MT

Sent from my iPad

Mark Mussman

From: Jessica J. <jjacobson512@gmail.com>
Sent: Thursday, April 30, 2020 1:28 PM
To: Mark Mussman
Subject: FCU-20-04



To Mr. Mark Mussman and to the Flathead Planning board,

I am requesting that (#FCU-20-04) be denied or delayed because this change in the gravel extraction permit is substantial and public comment period should be extended before a final decision is made.

The permit application and staff report did not go before the West Valley Land Advisory Committee and contains little information regarding the details and environmental impacts of the plant.

Asphalt plants are known to produce **toxic** air pollutants, including arsenic, benzene, formaldehyde, and cadmium, that may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritation.

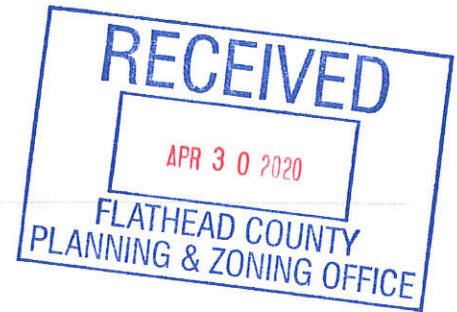
This part of the Valley is important to us. One of the reasons we live here is the cleanliness of the area. Please consider the impact that this plant will have on our well-being.

Thank you for your consideration.

Jessica Jacobson
601 Sawmill Lane, Kalispell, MT 59901
PO BOX 10492, Kalispell, MT 59901

Mark Mussman

From: Mary Fisher
Sent: Thursday, April 30, 2020 1:36 PM
To: Mark Mussman
Subject: FW: Event # 281 792 188



From: Robin Koski <robinkoski@yahoo.com>
Sent: Thursday, April 30, 2020 1:32 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Event # 281 792 188

To Whom It May Concern,

My name is Robin Susanne Koski. I am the owner of 1825 Church Drive Kalispell MT 59901. My residence on Church Drive and Farm to Market Rd is located approximately 2 blocks from the gravel pit on the West side of Church Drive.

I am highly opposed to the concrete/and or asphalt batch plant going in at 3427 Farm to Market Rd Kalispell MT 59901.

This will adversely effect the immediate neighborhood!***** It will cause our property value to go down for one.....and probably the most important reason to NOT allow this to happen.

Some of the people who live out here will be effected whom have health issues such as my self. A lot of us have worked very hard and have taken much pride in the upkeep and renovations of our homes and property in order to raise the value of it. Not to mention the thousands of dollars it took to do so.

It would truly be a very sad day to see a plant like that going in out here!

I appreciate your time in reading this concern.

Sincerely

Robin S. Koski

Phone# 406-260-0165

Mark Mussman

From: Beverly Dillon <bevfill@centurytel.net>
Sent: Thursday, April 30, 2020 11:15 AM
To: Mark Mussman
Subject: Schellinger/Tutvedt Pit



Dear Mr. Mussman,

This letter concerns the proposed asphalt and concrete batch plant to be located at the Schillinger/Tutvedt Gravel Pit on Farm to Market Road (#FCU-20-04)

We are asking that action be either denied or delayed until there has been sufficient time to study the facts concerning this case, many of which appear to have not been considered at all.

- * There appears to be a current ban in effect on asphalt and concrete batch plants on this site
- * This plant appears to be in an area considered to be zoned residential
- * This proposed plant would cause extra harmful dust, excessive heavy load traffic, dangerous fumes, and a generally industrialized appearance to this rural residential/agricultural area
- * Due to the strong winds in this area, dwellings quite far away would be subjected to dangerous air contaminates
- * The residents living in this area have not been given time to research this proposal fully and to respond. Due to coronavirus restraints at this time, it is not possible to hold a meeting where all those concerned could be present to discuss pros and cons of this proposal.

For the above reasons, we are joining with many others living in the West Valley to ask that this proposal be either denied or delayed until there has been given time for all the facts to be properly researched and a time for residents to respond.

Richard and Beverly Dillon
83 Wendt Way
Kalispell, Montana 59901

Mark Mussman

From: Mary Fisher
Sent: Thursday, April 30, 2020 1:19 PM
To: Mark Mussman
Subject: FW: asphalt batch plant in west valley

From: kathy ross <mtkat67@gmail.com>
Sent: Thursday, April 30, 2020 1:18 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: asphalt batch plant in west valley



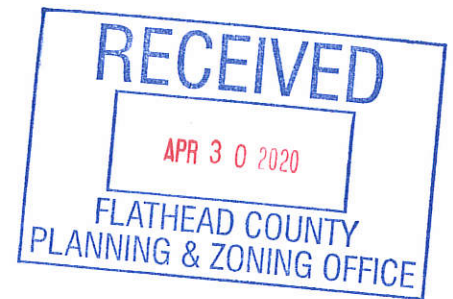
To whom it may concern,

I just read about this proposal and was horrified that you would consider, especially since there has not been an appropriate review. Really?? Stop and think about it. I hope if you let this pass, you live close to it so you can have the disgusting experience.

Sincerely,
Kathy Ross

Mark Mussman

From: Mary Fisher
Sent: Thursday, April 30, 2020 7:50 AM
To: Mark Mussman
Subject: FW: Public Comments For Reading May 5 - Schellinger / Section 16



From: John Lobbie <jplobbie@gmail.com>
Sent: Wednesday, April 29, 2020 11:13 PM
To: Planning.Zoning <Planning.Zoning@flathead.mt.gov>
Subject: Public Comments For Reading May 5 - Schellinger / Section 16

To Whom It May Concern -

Please confirm receipt of this email.

Pursuant to the statement on the document titled "Notice of Public Hearing Flathead County Board of Adjustment," which reads, "Individuals who wish to make public comments are encouraged to send in comments via email prior to the meeting....and they will be read into the public record," I request the following comments be entered into the public record as it pertains to item number FCU-20-04 Rob Koezler, Schellinger Construction Company Section 16 Family Limited Partnership:

- My name is John Lobbestael and I reside at and own the property at 107 Canola Road immediately South of the subject property. My North boundary is entirely common to the South boundary of the subject property.
- This commentary is not a statement of support or resistance to the proposed operation but criticism of the efforts of the Zoning Administration in processing, analyzing and presenting the Staff Report and Findings of Fact as several areas are seemingly unclear, require additional supporting information and verification or are in gross error. In the spirit of the pursuit of all applicable factual information for all interested parties in order that confidence be established in the public process, I request that the Board of Adjustment refer the application back to the Planning Director and Administrative Staff to evaluate and clarify the following information:
 - Staff Report
 - III Comments -> B. Public Comments -> 1 states that notification was mailed to property owners within 150 feet of the subject property. I do not recall having received such mailing. May it please the board to request on behalf of the public, that the Planning Director and Staff provide a list of parties to whom the mailing was directed and evaluate it's completeness.
 - IV Criteria Required For Consideration -> Paragraph 2 cites regulations under which a minor modification may be made. The Zoning Administrator concedes that the request constitutes a "**substantial change**," and proceeds to rationalize support by citing evolution of staff rendering original Findings of Fact as not applicable or missing adequate information. May it please the board to request on behalf of the public further discussion and clarification of how the administrative body has evolved, what findings of fact are not applicable and what information is missing such that it justifies the administrative support for granting the "substantial change."
 - May it further please the board on behalf of the public to seek the legal opinion of it's counsel as to what differentiates mining / extraction from manufacturing as

materials will have to be imported to and stored upon the site whereas typical mining / extraction processes are export only.

- IV -> A. Site Suitability -> 1. Adequate Usable Space states, "**The addition of an asphalt and/or concrete batch plant should not alter the current or future activities on site.**" May it please the board to request on behalf of the public that this statement be reconsidered by the administrative body as it would seem that addition of a plant patently alters site activities. Perhaps the author(s) of the document need more familiarity with the intense manufacturing processes, petroleum / chemical import stocking and reaction processes involved in generation of concrete and asphalt as the entire document is seemingly quiet on the apparent necessity of alteration of activities from mining /extraction to supporting such manufacturing, import, storage and reaction processes associated with the proposed use.
- IV -> A. Site Suitability -> 3. Absences of Environmental Constraints. May it please the board to point out on behalf of the public that the National Wetland Inventory does appear to depict habitat classified as PABFx upon the subject property. The board might request assurance that this is not constitute an environmental constraint and is not regulated. (Source: <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>)
- IV -> C. Availability of Public Services and Facilities -> Fire Protection. May it please the board to inquire on behalf of the public upon the basis of the statement that "Impacts to the fire district appear to be minimal," in light of the fact that a manufacturing facility reliant upon the storage, processing and mixing of petroleum and/or petro-chemicals may be a fire risk for which the rural fire district is unable to respond to.
- IV -> D Immediate Neighborhood Impact -> Smoke, Fumes, Gas or Odors. May it please the board to inquire on behalf of the public that the actual distance and direction to the closest residence be verified, re-evaluated and re-stated as my residence is considerably less than 1600 feet from the subject property due South / Southeasterly.
- VI -> Conclusion. May it please the board to inquire on behalf of the public, what specific "Recreational Facility," is being proposed?
- Application
 - B. Appropriateness of Design (3). May it please the board to suggest on behalf of the public, that the administrative body investigate the applicant's statement that the fence is installed to prevent livestock and wildlife from entering the site, as it is clear that several whitetail deer and coyotes frequently visit the site.
- Site Map
 - (As posted with the application) May it please the board to suggest on behalf of the public, that the site map reflect more specific representation of the proposed location and physical extents of the plant.

Thank you for reading and entering my comments into the record.

John Lobbestael

APR 30 2020

APR 29 2020

Mark Mussman

From: Teri Bjornrud <teri@centurytel.net>
Sent: Wednesday, April 29, 2020 10:01 PM
To: Mark Mussman
Subject: West Valley Attn Planning/zoning & BOA

Hello, I just learned of the gravel pit application tonight @ the Tutvedt/Shellinger pit for asphalt or concrete batch plant. I live in West Valley (a little south of the existing pit) and I strongly feel the public needs to be more informed about the plan and given an opportunity to voice concerns or have those concerns assuaged. This is a serious issue and please delay the process and publicize additional details. If you arranged an information meeting, I would attend.

Please Postpone The Vote until we can be better informed

Teri Bjornrud
540 Grande Vista Dr
Kalispell MT 59901



Mark Mussman

From: Craig Montgomery <csmont@centurytel.net>
Sent: Wednesday, April 29, 2020 8:40 PM
To: Mark Mussman
Subject: Asphalt pit

Mr. Mussman,

I hope you adhere to the condition that an asphalt plant is prohibited at the location mentioned. This is residential and not commercial.

Do not allow this to happen to us that enjoy our homes out here in the West Valley. I would appreciate a phone call from you to discuss this

matter further. Craig Montgomery / 253-8631..



Mark Mussman

From: JAMES WEBER <jwdisciple@msn.com>
Sent: Wednesday, April 29, 2020 8:17 PM
To: Mark Mussman
Subject: Please postpone vote on Concrete/Asphalt Plant on Farm-To-Market Road

Dear Planning Office/BOA,

I am a West Valley resident just finding out about the proposed plant and have three major concerns:

- 1) There does not appear to be enough adequate information regarding the proposed plant to make any kind of decision regarding it's acceptability, such as: it's overall intended size, intended specific uses or outputs, projected amount of extra traffic, size and weight of trucks or vehicles that will be used, environmental impact studies, mitigations that will be put in place to insure good air quality is maintained... In short, from the information I have, there appears to be very little planning or forethought put into this proposal at all.
- 2) Farm-To-Market Road is already in disrepair with sections of the road beginning to sluff and settle causing dips and cracking in the asphalt. Additional traffic, especially from large heavy rigs will only exacerbate this already existing problem.
- 3) This is an issue that deserves to be fully and openly discussed in a public forum allowing citizen interaction with elected and appointed officials to insure everything is done above board with complete transparency. To try and hold such an important hearing via telephone conferencing is imprudent and lacking in open communication.

RESPECTFULLY, I REQUEST THAT THIS HEARING BE POSTPONED UNTIL IT CAN BE HELD IN AN OPEN PUBLIC SETTING.

Thank you!
Jim Weber
227 Rhodes Draw
720-301-4723



Mark Mussman

From: Sandy Montgomery <csmont128@outlook.com>
Sent: Wednesday, April 29, 2020 4:52 PM
To: Mark Mussman
Subject: Please Decline or deny Meeting/Hearing on Proposed Asphalt Concrete Plant at 3427 Farm to Market



As a 20 year resident 1 mile north of this proposed operation.... THIS IS THE 1st we have heard of said proposal. With the current situation of Covid-19. It appears to be opportunistic for this operation to be pushed through. As a long time resident of this beautiful valley, it is becoming apparent that there are folks in office that are thinking only of their own financial gain, NOT what is best for our lifestyle here in Montana. WE urge you to delay further action on this venue along with requesting an environmental impact study! Respectfully, Craig and Sandy Montgomery

Sent from Mail for Windows 10

Mark Mussman

From: MT Sky Nikki <firstfruits77@montanasky.com>
Sent: Wednesday, April 29, 2020 12:29 PM
To: Mark Mussman
Cc: Nicola Tomlin
Subject: West Valley proposed asphalt plant



Mr. Mussman,

It has just come to my attention that an application has been made to construct a concrete/asphalt plant at or near the corner of Farm to Market Road and Church Drive and that this discussion and vote will occur on May 5, 2020. My concerns are two-fold:

1. Most of the neighbors in this area have had little to no notification of this plan except for those living within 100 feet of the planned expansion. Given the size, scope, and potential serious neighborhood impact of this plant, ALL residents up and down Church Drive and Farm to Market Road need to be notified and given the chance to speak their concerns IN PERSON. I understand that you plan to have the May 5th discussion held over the telephone. This is inappropriate. Many people do not know how to do conference calling over the phone or computer. Additionally, the internet connection in West Valley is sporadic depending on what internet service provider is used. Also, some residents may want to provide visual displays about their concerns which cannot happen over the telephone. My suggestion is that this important meeting be postponed indefinitely until an in-person meeting can be held.

2. West Valley is a RESIDENTIAL community and people here do not want their community turned into an industrial complex of heavy equipment, heavy trucking, noise, and pollution. I do not see on the requestor's application any details about the size and scope of the operation or even why it is needed given that there already is a concrete/asphalt plant right on Stillwater Road just north of Reserve. Have you ever sat out in front of that plant and counted the trucks that go back and forth? I did and it is significant - constant heavy truck traffic back and forth all the time. I am already very concerned about the increased heavy truck traffic on Farm to Market Road just from the existing gravel pit operations and adding the new plant would make it even worse. Church Drive is already riddled with heavy trucks throughout the day and I don't want this happening to Farm to Market Road. Let me also state that there is SIGNIFICANT pungent and noxious odors that come from these types of plants that produce health hazards. As you know, there is a new residential area just to the south of the gravel pit and another planned 20-acre per home development site directly west of the gravel pit. So, as you can see, more and more homes are slated to be built into this particular area of West Valley and I'm sure these people, along with the existing residents of West Valley, do not want to smell that residual asphalt stench every day. Per the West Valley Neighborhood Plan, it is a RESIDENTIAL community, not a community that is to be co-mingled with heavy industry. In my view, permitting this concrete/asphalt plant would be in direct opposition to the Neighborhood Plan and, in essence, just become a Pandora's box for intrusion of other industrial/commercial activity in this area. Property values and peace of mind would plummet.

Please reconsider your thinking about approving this issue and having this vote occur May 5. Give the residents of West Valley who will be the most impacted by the asphalt/concrete plant to make their concerns heard in person. Thank-you.

Sincerely,
Nicola Tomlin
3010 Farm to Market Road

Mark Mussman

From: Charlene Iannucci <ciannucci1963@gmail.com>
Sent: Tuesday, April 28, 2020 11:06 AM
To: Mark Mussman
Subject: postpone BOA meeting



Mr. Mussman and Board of Adjustment members,

I am respectfully requesting that the May 5 meeting regarding the Schellinger/Tutvedt CUP change be delayed or postponed until June 7 at the earliest. This would allow more time for residents to learn how to phone conference (if necessary) and for the applicants to provide further details on the batch plant operations.

Thank you,
Charlene Iannucci
597 Clark Homestead Ln.
Kalispell, MT 59901

Angela Phillips

From: Mike <mike7@centurylink.net>
Sent: Tuesday, April 28, 2020 11:53 AM
To: Planning.Zoning
Subject: Schellinger/Tutvedt Asphalt Plant Application

Mark:

We went through this gravel pit/asphalt plant issue years ago and he won on the gravel pit but lost on the asphalt plant. Please look at the old notes as to why and just deny this application this time and save us all a lot of time and trouble. Radio tower fight was a pain, you did not even ask for a real site plan they submitting one from another state??, very frustrating. Seems like there was something to do with a MT Supreme Court case that tipped the scales, cannot remember for sure?

Please do a more thorough review and have more stringent permit requirements that make sense this time and kill it before it starts.

Thank you,

Mike Beale



Mark Mussman

From: maklein@protonmail.com
Sent: Tuesday, April 28, 2020 11:45 PM
To: Mark Mussman
Subject: FCU-20-04: Request for Denial or Delay on Decision



Mark,

Due to COVID-19 restrictions, I am writing to request that the County's decision regarding FCU-20-04 be postponed until an in-person public hearing can be arranged, or denial until the following concerns are addressed:

1. Regarding the decision on Conditional Use Permit FCU-05-07, why are the reasons that led to the condition "Asphalt and concrete batch plant operations are prohibited." no longer legitimate? Were adjacent property owners notified of this? Can the County set aside this precedent without adjacent property owner recourse?
2. Where would the operation be located on the 320 acres outlined?
3. What is the landscaping plan? Will irrigation be installed since screen plantings will not survive the droughty soil or reach an appropriate size without supplemental irrigation? Do the plantings need to reach a minimum height and density before they are considered an effective screen?
4. What is the remediation plan for the land when operations cease?
5. Gravel extraction, screening, and stockpiling (the present uses of the quarry) are not chemical processes. Making asphalt and concrete are chemical processes. Are these chemical processes approved for the site?
6. Would Portland cement and/or bitumen be imported to the site? What is the plan for managing these materials? Is the site going to be lined to protect groundwater?
7. Will the agricultural fields to the east have portland cement dust falling on them and on the soil? Are these fields going to be retired?

Thank you for your time,
Matt Klein

Sent with ProtonMail Secure Email.

Mark Mussman

From: Mary Fisher
Sent: Monday, April 27, 2020 7:37 AM
To: Mark Mussman
Subject: FW: Contact Message



From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, April 26, 2020 6:02 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name:	Julie Patz
Email:	ovenbirdwi@yahoo.com
Subject:	Schellinger Construction condition approval
Message:	I oppose the modification of approval of FCU-05-07 allowing the operation of a concrete and/or asphalt batch plant on an existing gravel extraction operation located at 3427 Farm to Market Road. This would be detrimental to many families (voters). We value our air and water quality. The increased noise and dust would also harm many families. It's time to support the many residents in the area and not two companies.

Mark Mussman

From: Mary Fisher
Sent: Monday, April 27, 2020 7:36 AM
To: Mark Mussman
Subject: FW: Contact Message



From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Sunday, April 26, 2020 5:53 PM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name:	Terry Zink
Email:	zinksbigskyarcherytargets@gmail.com
Subject:	Gravel pit
Message:	I support the proposed concrete and asphalt batch plant on farm to market. There is no housing on either side of the road and the gravel pit has already been there for a number of years and it is promoting more jobs to employ the Flathead Valley from a long standing construction company that has been in business for years.

Mark Mussman

From: Mary Fisher
Sent: Thursday, April 23, 2020 8:58 AM
To: Mark Mussman
Subject: FW: Contact Message



From: website@flathead.mt.gov <website@flathead.mt.gov>
Sent: Thursday, April 23, 2020 8:57 AM
To: PZ Contact US <pzcontactus@flathead.mt.gov>
Subject: Contact Message

Contact Inquiry

The information below is being sent from your website.

Name:	Janine Rubinier
Email:	janine@j9ranch.com
Subject:	NO TO ASPHALT AND CONCRETE BATCH PLANTS
Message:	Absolutely NO TO ASPHALT AND CONCRETE BATCH PLANTS IN WEST VALLEY!!! 327 FARM TO MARKET RD Sec 16 T29N R22 W P.M.M. Flathead Co. MT